

Journal of the House

FIFTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, March 26, 2003, 9:30 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 125 members present.

Prayer by guest chaplain, the Rev. Cal Dickinson, United Methodist retired pastor, Baldwin, and guest of Rep. Holland:

HOLY MYSTERY, whom no name can reveal,
nor our thoughts fully comprehend:

We are ever grateful for your Divine Presence, Power and Peace
which keeps, guides and blesses us every day.

Teach us to discern and accept your hand at work
in all things seen and unseen;
to love justice, do mercy, and walk humbly
before your Sovereign Presence.

As our representative servants in the Kansas legislature turn again to
the matters of government, let your grace reside in their hearts, that they
may seek to be at peace with all, wise and just in judgment, patiently kind
to those who offend them, faithful in duties and sincere in sorrow when
they fall in duty.

May each one sense the gentle nudges of the Holy Spirit within the
hear, and acknowledge that your grace is sufficient in all circumstances.

Finally, so guide their thoughts, deliberations, debates, and speech, that
at the end of the day honorable resolutions of the issues before them offer
benefits for all Kansans.

Gracious Ruler and Judge of all creation, hear our prayers. AMEN.

The Pledge of Allegiance was led by Rep. Peterson.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Agriculture: **HB 2460.**

Appropriations: **HB 2458, HB 2461.**

Commerce and Labor: **Sub. SB 181.**

Taxation: **HB 2459.**

MESSAGE FROM THE GOVERNOR

March 24, 2003

Message to the House of Representatives of the State of Kansas:

Enclosed herewith is Executive Order No. 2003-08 for your information.

EXECUTIVE ORDER NO. 2003-08

Establishing Cellular Phone Policies

KATHLEEN SEBELIUS

Governor

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Thimesch, **HR 6019**, A resolution memorializing the Congress of the United States to provide necessary funding for the Department of Veterans Affairs, was adopted.

There being no objection, the following remarks by Rep. Thimesch are spread upon the Journal:

We are all very concerned about the safety and well-being of our troops. 7500 Kansans, were deployed to the Gulf in 1991. Today over 5,000 Kansans are deployed to the Gulf in "Operation Iraqi, Freedom".

Mr. Speaker, our nation does not have a good track record of taking care of our returning veterans after a conflict. Long after the Viet Nam War we recognized the problems of Agent Orange and delayed stress syndrome. Then after the Gulf War we finally recognized Gulf War illness. Chronic fatigue, muscle and joint pain, memory loss, skin rashes, brain disorders, lung damage, neuro-physiological difficulties and more.

Knowing that, Mister Speaker, we should prepare now to assist the troops coming home from "Operation Iraqi Freedom". Our partnership must be of support when they return home. We must not desert them when they need our help. We absolutely know that some will need medical care and financial help. We must not let them down. May God Bless our efforts.

Mr. Speaker, Secretary Principi, Secretary of the VA has announced his new Research Advisory Committee. This committee will be composed of outstanding scientists and doctors who will for the first time, work to objectively solve the problem. It will report directly to him, and should be properly funded so that it can successfully complete its mission. I have every confidence that positive constructive action will be taken to deal with these serious problems. Dr. Steele, who did our Kansas Gulf War Study, is on his Research Advisory Committee.

CONSENT CALENDAR

No objection was made to **HB 2416** appearing on the Consent Calendar for the first day. No objection was made to **SB 240** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2444, An Act making and concerning appropriations for the fiscal years ending June 30, 2003, June 30, 2004, and June 30, 2005, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2-223 and K.S.A. 2002 Supp. 55-193, 75-2319, 76-775, 79-2959, as amended by section 21 of 2003 House Bill No. 2026, 79-2964, as amended by section 22 of 2003 House Bill No. 2026, 79-34251, as amended by section 23 of 2003 House Bill No. 2026, 79-34,147, 79-4804 and 82a-953a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 83; Nays 42; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Bethell, Betts, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Feuerborn, Flaharty, Flora, Gilbert, Gordon, Grant, Hayzlett, Henderson, Henry, Holland, Holmes, Horst, Huff, D. Johnson, E. Johnson, Kirk, Krehbiel, Kuether, Larkin, Light, Loganbill, M. Long, P. Long, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Neufeld, Nichols, Novascone, Osborne, Ostmeyer, Owens, Peterson, Phelps, Powell, Powers, Reardon, Rehorn, Ruff, Sawyer, Schwab, Schwartz, B. Sharp, Showalter, Shriver, Shultz, Siegfried, Storm, Svaty, Swenson, Thimesch, Thull, Toelkes, Vickrey, Ward, D. Williams, J. Williams, Wilson.

Nays: Beggs, Boyer, Brunk, Burgess, Burroughs, Campbell, Dreher, Edmonds, Faber, Freeborn, Gatewood, Goering, Goico, Hill, Howell, Huebert, Humerickhouse, Huntington, Hutchins, Huy, Jack, Kassebaum, Kauffman, Klein, Landwehr, Loyd, Myers, Neighbor, Newton, O'Malley, O'Neal, Patterson, Pauls, Pottorff, Reitz, S. Sharp, Sloan, Tafanelli, Wilk, Winn, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: None.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: I vote "no" on **HB 2444**. The bill doesn't balance and does nothing to address demonstrated needs. It assumes the passage of many substantive bills that would be necessary to legalize the budget plan. Many have not and will not pass. Some haven't even been drafted, though we are on the eve of first adjournment. We have not been provided the opportunity, even as of today's late date, to debate policy and establish our spending priorities. This appears to be by design. Until we have that opportunity I will continue to be a "No" vote.—MICHAEL R. O'NEAL, WARD LOYD

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Ruff, the House concurred in Senate amendments to **Sub. HB 2064**, An act concerning civil procedure; relating to filing time; amending K.S.A. 60-1102 and K.S.A. 2002 Supp. 60-1103 and repealing the existing sections.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Betts, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Nichols, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Peterson, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

On motion of Rep. Hayzlett, the House concurred in Senate amendments to **HB 2158**, An act concerning authorized emergency vehicles; designating wreckers, tow trucks or car carriers as authorized emergency vehicles; amending K.S.A. 8-1404, 8-2010 and 8-2010a and repealing the existing sections.

On roll call, the vote was: Yeas 124; Nays 1; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Betts, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Nichols, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Peterson, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Sieg-

freid, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Dillmore.

Present but not voting: None.

Absent or not voting: None.

On motion of Rep. Jim Morrison, the House concurred in Senate amendments to **HB 2169**. An act concerning the Kansas board of examiners in optometry; relating to the fees charged and collected by the board; amending K.S.A. 65-1505 and 65-1509 and repealing the existing sections.

On roll call, the vote was: Yeas 94; Nays 31; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Beggs, Bethell, Betts, Boyer, Burgess, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, DeCastro, Decker, Dillmore, Dreher, Feuerborn, Flaherty, Freeborn, Gatewood, Gilbert, Gordon, Grant, Hayzlett, Henry, Hill, Holland, Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, Kassebaum, Kirk, Krehbiel, Light, Loganbill, M. Long, Mason, Mays, McCreary, McKinney, Merrick, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Nichols, Novascone, O'Neal, Owens, Patterson, Pauls, Peterson, Phelps, Pottorff, Powell, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwartz, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Barbieri-Lightner, Brunk, Burroughs, Carter, Davis, Edmonds, Faber, Flora, Goering, Goico, Henderson, Howell, Huebert, Huy, E. Johnson, Kauffman, Klein, Kuether, Landwehr, Larkin, P. Long, Loyd, McLeland, F. Miller, Newton, O'Malley, Osborne, Ostmeyer, Powers, Schwab, Siegfried.

Present but not voting: None.

Absent or not voting: None.

On motion of Rep. Aurand, the House went into Committee of the Whole, with Rep. Hayzlett in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Hayzlett, Committee of the Whole report, as follows, was adopted:

Recommended that **SB 70**, **SB 11** be passed.

Committee report to **SB 71** be adopted; and the bill be passed as amended.

Committee report to **SB 103** be adopted; and the bill be passed as amended.

Committee report to **SB 61** be adopted; and the bill be passed as amended.

Committee report to **SB 131** be adopted; and the bill be passed as amended.

Sub. SB 83; SB 120, SB 57; HB 2267 be passed over and retain a place on the calendar (see Committee of the Whole, Afternoon Session).

Committee report to **SB 119** be adopted; and the bill be passed as amended.

Committee report to **SB 55** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 27** be adopted; and the substitute bill be passed.

Committee report to **SB 155** be adopted; also, on motion of Rep. McCreary to amend, the motion did not prevail.

Also, on motion of Rep. McKinney to amend **SB 155**, Rep. Freeborn requested the question be divided. The question was divided.

On Part A, **SB 155** be amended on page 1, after line 17, by inserting:

“Section 1. K.S.A. 65-3407 is hereby amended to read as follows: 65-3407. (a) Except as otherwise provided by K.S.A. 65-3407c, and amendments thereto, no person shall construct, alter or operate a solid waste processing facility or a solid waste disposal area of a solid waste management system, except for clean rubble disposal sites, without first obtaining a permit from the secretary.

(b) Every person desiring to obtain a permit to construct, alter or operate a solid waste processing facility or disposal area shall make application for such a permit on forms provided for such purpose by the rules and regulations of the secretary and shall provide the

secretary with such information as necessary to show that the facility or area will comply with the purpose of this act. Upon receipt of any application and payment of the application fee, the secretary, with advice and counsel from the local health authorities and the county commission, shall make an investigation of the proposed solid waste processing facility or disposal area and determine whether it complies with the provisions of this act and any rules and regulations and standards adopted thereunder. The secretary also may consider the need for the facility or area in conjunction with the county or regional solid waste management plan. If the investigation reveals that the facility or area conforms with the provisions of the act and the rules and regulations and standards adopted thereunder, the secretary shall approve the application and shall issue a permit for the operation of each solid waste processing or disposal facility or area set forth in the application. If the facility or area fails to meet the rules and regulations and standards required by this act the secretary shall issue a report to the applicant stating the deficiencies in the application. The secretary may issue temporary permits conditioned upon corrections of construction methods being completed and implemented.

(c) Before reviewing any application for permit, the secretary shall conduct a background investigation of the applicant. The secretary shall consider the financial, technical and management capabilities of the applicant as conditions for issuance of a permit. The secretary may reject the application prior to conducting an investigation into the merits of the application if the secretary finds that:

(1) The applicant currently holds, or in the past has held, a permit under this section and while the applicant held a permit under this section the applicant violated a provision of subsection (a) of K.S.A. 65-3409, and amendments thereto; or

(2) the applicant previously held a permit under this section and that permit was revoked by the secretary; or

(3) the applicant failed or continues to fail to comply with any of the provisions of the air, water or waste statutes, including rules and regulations issued thereunder, relating to environmental protection or to the protection of public health in this or any other state or the federal government of the United States, or any condition of any permit or license issued by the secretary; or if the secretary finds that the applicant has shown a lack of ability or intention to comply with any provision of any law referred to in this subsection or any rule and regulation or order or permit issued pursuant to any such law as indicated by past or continuing violations; or

(4) the applicant is a corporation and any principal, shareholder, or other person capable of exercising total or partial control of such corporation could be determined ineligible to receive a permit pursuant to subsection (c)(1), (2) or (3) above.

(d) Before reviewing any application for a permit, the secretary may request that the attorney general perform a comprehensive criminal background investigation of the applicant; or in the case of a corporate applicant, any principal, shareholder or other person capable of exercising total or partial control of the corporation. The secretary may reject the application prior to conducting an investigation into the merits of the application if the secretary finds that serious criminal violations have been committed by the applicant or a principal of the corporation.

(e) (1) The fees for a solid waste processing or disposal permit shall be established by rules and regulations adopted by the secretary. The fee for the application and original permit shall not exceed \$5,000. Except as provided by paragraph (2), the annual permit renewal fee shall not exceed \$2,000. No refund shall be made in case of revocation. In establishing fees for a construction and demolition landfill, the secretary shall adopt a differential fee schedule based upon the volume of construction and demolition waste to be disposed of at such landfill. All fees shall be deposited in the state treasury and credited to the solid waste management fund. A city, county, other political subdivision or state agency shall be exempt from payment of the fee but shall meet all other provisions of this act.

(2) The annual permit renewal fee for a solid waste disposal area which is permitted by the secretary, owned and operated by the facility generating the waste and used only for industrial waste generated by such facility shall be not less than \$1,000 nor more than \$4,000. In establishing fees for such disposal areas, the secretary shall adopt a differential fee schedule based upon the characteristics of the disposal area sites.

(f) Plans, designs and relevant data for the construction of solid waste processing facilities and disposal sites shall be prepared by a professional engineer licensed to practice in Kansas and shall be submitted to the department for approval prior to the construction, alteration or operation of such facility or area. In adopting rules and regulations, the secretary may specify sites, areas or facilities where the environmental impact is minimal and may waive such preparation requirements provided that a review of such plans is conducted by a professional engineer licensed to practice in Kansas.

(g) Each permit granted by the secretary, as provided in this act, shall be subject to such conditions as the secretary deems necessary to protect human health and the environment and to conserve the sites. Such conditions shall include approval by the secretary of the types and quantities of solid waste allowable for processing or disposal at the permitted location.

(h) As a condition of granting a permit to operate any processing facility or disposal area for solid waste, the secretary shall require the permittee to: (1) Provide a trust fund, surety bond guaranteeing payment, irrevocable letter of credit or insurance policy, to pay the costs of closure and postclosure care; or (2) pass a financial test or obtain a financial guarantee from a related entity, to guarantee the future availability of funds to pay the costs of closure and postclosure care. The secretary shall prescribe the methods to be used by a permittee to demonstrate sufficient financial strength to become eligible to use a financial test or a financial guarantee procedure in lieu of providing the financial instruments listed in (1) above. Solid waste processing facilities or disposal areas, except municipal solid waste landfills, may also demonstrate financial assurance for closure and postclosure care costs by use of ad valorem taxing power. In addition, the secretary shall require the permittee to provide liability insurance coverage during the period that the facility or area is active, and during the term of the facility or area is subject to postclosure care, in such amount as determined by the secretary to insure the financial responsibility of the permittee for accidental occurrences at the site of the facility or area. Any such liability insurance as may be required pursuant to this subsection or pursuant to the rules and regulations of the secretary shall be issued by an insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b, and amendments thereto, and shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto. Nothing contained in this subsection shall be deemed to apply to any state agency or department or agency of the federal government.

(i) (1) Permits granted by the secretary as provided by this act shall not be transferable except as follows:

(A) A permit for a solid waste disposal area may be transferred if the area is permitted for only solid waste produced on site from manufacturing and industrial processes or on-site construction or demolition activities and the only change in the permit is a name change resulting from a merger, acquisition, sale, corporate restructuring or other business transaction.

(B) A permit for a solid waste disposal area or a solid waste processing facility may be transferred if the secretary approves of the transfer based upon information submitted to the secretary sufficient to conduct a background investigation of the new owner as specified in subsections (c) and (d) of K.S.A. 65-3407, and amendments thereto, and a financial assurance evaluation as specified in subsection (h) of K.S.A. 65-3407, and amendments thereto. Such information shall be submitted to the secretary not more than one year nor less than 60 days before the transfer. If the secretary does not approve or disapprove the transfer within 30 days after all required information is submitted to the secretary, the transfer shall be deemed to have been approved.

(2) Permits granted by the secretary as provided by this act shall be revocable or subject to suspension whenever the secretary shall determine that the solid waste processing or disposal facility or area is, or has been constructed or operated in violation of this act or the rules and regulations or standards adopted pursuant to the act, or is creating or threatens to create a hazard to persons or property in the area or to the environment, or is creating or threatens to create a public nuisance, or upon the failure to make payment of any fee required under this act.

(3) The secretary also may revoke, suspend or refuse to issue a permit when the secretary determines that past or continuing violations of the provisions of K.S.A. 65-3409, subsection (c)(3) of K.S.A. 65-3407 or K.S.A. 65-3424b, and amendments thereto, have been committed by a permittee, or any principal, shareholder or other person capable of exercising partial or total control over a permittee.

(j) Except as otherwise provided by subsection (i)(1), the secretary may require a new permit application to be submitted for a solid waste processing facility or a solid waste disposal area in response to any change, either directly or indirectly, in ownership or control of the permitted real property or the existing permittee.

(k) In case any permit is denied, suspended or revoked the person, city, county or other political subdivision or state agency may request a hearing before the secretary in accordance with K.S.A. 65-3412, and amendments thereto.

(l) (1) No permit to construct or operate a solid waste disposal area shall be issued on or after the effective date of this act if such area is located within ½ mile of a navigable stream used for interstate commerce or within one mile of an intake point for any public surface water supply system.

(2) Any permit, issued before the effective date of this act, to construct or operate a solid waste disposal area is hereby declared void if such area is not yet in operation and is located within ½ mile of a navigable stream used for interstate commerce or within one mile of an intake point for any public surface water supply system.

(3) The provisions of this subsection shall not be construed to prohibit: (A) Issuance of a permit for lateral expansion onto land contiguous to a permitted solid waste disposal area in operation on the effective date of this act; (B) issuance of a permit for a solid waste disposal area for disposal of a solid waste by-product produced on-site; (C) renewal of an existing permit for a solid waste area in operation on the effective date of this act; or (D) activities which are regulated under K.S.A. 65-163 through 65-165 or 65-171d, and amendments thereto.

(m) (1) No permit to construct or operate a solid waste disposal area shall be issued on or after the effective date of this act if: (A) Such area is located within five miles of a stream with an average annual mean streamflow of more than 40 cubic feet per second, as measured at the nearest United States geological survey gauging station; and (B) the secretary, after consultation with the Kansas geological survey, determines that within 15 miles of such area there is a location which would be appropriate for a solid waste disposal area and which would have less potential for water pollution.

(2) Any permit, issued before the effective date of this act, to construct or operate a solid waste disposal area is hereby declared void if: (A) Such area is not yet in operation and is located within five miles of a stream with an average annual mean streamflow of more than 40 cubic feet per second, as measured at the nearest United States geological survey gauging station; and (B) the secretary, after consultation with the Kansas geological survey, determines that within 15 miles of such area there is a location which would be appropriate for a solid waste disposal area and which would have less potential for water pollution.

(3) The provisions of this subsection shall not be construed to prohibit: (A) Issuance of a permit for lateral expansion onto land contiguous to a permitted solid waste disposal area in operation on the effective date of this act; (B) issuance of a permit for a solid waste disposal area for disposal of a solid waste by-product produced on-site; (C) renewal of an existing permit for a solid waste area in operation on the effective date of this act; or (D) activities which are regulated under K.S.A. 65-163 through 65-165 or 65-171d, and amendments thereto.

~~(m)~~ (o) Before reviewing any application for a solid waste processing facility or solid waste disposal area, the secretary shall require the following information as part of the application:

(1) Certification by the board of county commissioners or the mayor of a designated city responsible for the development and adoption of the solid waste management plan for the location where the processing facility or disposal area is or will be located that the processing facility or disposal area is consistent with the plan. This certification shall not apply to a solid waste disposal area for disposal of only solid waste produced on site from manufacturing and industrial processes or from on-site construction or demolition activities.

(2) If the location is zoned, certification by the local planning and zoning authority that the processing facility or disposal area is consistent with local land use restrictions or, if the location is not zoned, certification from the board of county commissioners that the processing facility or disposal area is compatible with surrounding land use.

(3) For a solid waste disposal area permit issued on or after July 1, 1999, proof that the permittee owns the land where the disposal area will be located, if the disposal area is: (A) A municipal solid waste landfill; or (B) a solid waste disposal area that has: (i) A leachate or gas collection or treatment system; (ii) waste containment systems or appurtenances with planned maintenance schedules; or (iii) an environmental monitoring system with planned maintenance schedules or periodic sampling and analysis requirements. This requirement shall not apply to a permit for lateral or vertical expansion contiguous to a permitted solid waste disposal area in operation on July 1, 1999, if such expansion is on land leased by the permittee before April 1, 1999.”;

Also on page 1, in line 18, by striking “Section 1.” and inserting “Sec. 2.”;

By Renumbering the remaining sections accordingly;

On page 11, in line 17, after “K.S.A.” by inserting “65-3407.”;

In the title, in line 12, by striking all after the first semicolon; in line 13, after “K.S.A.” by inserting “65-3407.”;

On Part B, **SB 155** be amended by inserting (n), as follows, in the amendment as adopted above:

(n) Before issuing any permit to construct or operate a solid waste disposal area within four miles of a stream with an average annual mean streamflow of more than 50 cubic feet per second, as measured at the nearest United States geological survey gauging station, the secretary shall contract for a hydrological evaluation of the proposed solid waste disposal area to be performed by an independent professional geologist licensed to practice in Kansas. The cost of the evaluation shall be paid by the applicant.

Also, on motion of Rep. McCreary to amend **SB 155**, the motion did not prevail and the bill be passed as amended.

Committee report to **HB 2426** be adopted; also, on motion of Rep. Powers to amend, the motion did not prevail and the bill be passed as amended.

Committee report to **SB 159** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Economic Development** recommends **SB 235** be amended on page 2, preceding line 13, by inserting:

“(d) “Commence work” means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.”;

By relettering subsections accordingly;

Also on page 2, in line 31, by striking the comma; in line 32, by striking all preceding the period;

On page 3, in line 5, preceding the period by inserting “and the effect, if any, the redevelopment or special bond project will have on any outstanding special obligation bonds as authorized pursuant to subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto”; preceding line 18, by inserting:

“(o) “Major commercial entertainment and tourism area” shall include, but not be limited to, a major multi-sport athletic complex.

(p) “Major multi-sport athletic complex” means an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other development that may or may not be contiguous. Such complex shall meet the requirements set out in subsection (a)(4) of K.S.A. 74-8936, and amendments thereto, regarding retail space.”;

By relettering subsections accordingly;

Also on page 3, in line 33, by striking “and” and inserting a comma; also in line 33, preceding the semicolon by inserting “and river walk canal facilities”;

On page 4, preceding line 30, by inserting:

“(v) “River walk canal facilities” means a canal and related water features located adjacent to a river which flows through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to pedestrian walkways and promenades, hotels, retail and commercial facilities, landscaping and parking facilities.”;

By relettering subsections accordingly;

On page 5, in line 7, preceding the period by inserting “, government building or school”; in line 20, following the period by inserting “The secretary may also make such a finding with respect to any special bond project located in a redevelopment district established by a city prior to the effective date of this act.”; preceding line 25, by inserting:

“(b) A special bond project shall not be granted if granting such project would cause a default in the payment of any outstanding special obligation bonds as authorized pursuant to subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto.

(c) Any redevelopment project plan in a redevelopment district located in the city of Wichita that is eligible for benefits provided by K.S.A. 12-1774 *et seq.*, and amendments thereto, and includes an arena or arena like structure shall be subject to approval by a vote by the citizens of Wichita at an election held for this purpose prior to approval by the secretary of commerce and housing.”;

Also on page 5, in line 25, by striking “(b)” and inserting “(d)”; in line 30, by striking “30” and inserting “25”;

On page 7, preceding line 11, by inserting:

“(h) Any developer of a special bond project shall commence work on such project within two years from the date of adoption of the project plan. Should the developer fail to commence work on the special bond project within the two-year period, funding for such project shall cease and the developer of such project shall have one year to appeal to the secretary for reapproval of such project and the funding for it. Should the project be reapproved, the two-year period for commencement shall apply.

(i) The provisions of this act regarding special bond projects shall expire on and after July 1, 2007.”;

Also on page 7, in line 31, following “that” by inserting “based upon the feasibility study”;

On page 8, in line 1, by striking all following the comma; by striking all in lines 2 through 4; in line 5, by striking all preceding the period and inserting “not less than 90% of the local sales tax collected shall be pledged for such project”;

On page 12, following line 15, by inserting:

“Sec. 7. K.S.A. 74-8936 is hereby amended to read as follows: 74-8936. (a) As used in this act:

(1) “Board” means the board of trustees of Kansas City Kansas community college;

(2) “foundation” means the Kansas multi-sport and recreation foundation;

(3) “increment” means that amount of state and local sales tax revenue imposed pursuant to K.S.A. 12-187 *et seq.* and 79-3601 *et seq.*, and amendments thereto, collected from taxpayers doing business within the boundaries of the project area that is in excess of the amount of such taxes collected prior to the date the resolution authorizing the project was adopted by the board;

(4) “project” means the construction of a multi-sport athletic complex and the improvement of facilities within the project area. *Such project may include an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other development that may or may not be contiguous. Retail space may not constitute more than 35% of the total project area. For purposes of calculating the retail percentage, all shared parking areas shall be considered part of the athletic complex; and*

(5) “project area” means the boundaries of the area in which the project will be undertaken as described by the board, but shall not include the boundaries of any redevelopment district in a major tourism area which includes an auto race track facility located in Wyandotte county as follows: Beginning at the intersection of Interstate 70 and Interstate 435; west along Interstate 70 to 118th Street; north along 118th Street to State Avenue; northeasterly along proposed relocated State Avenue to 110th Street; north along 110th

Street to Parallel Parkway; east along Parallel Parkway to Interstate 435; South along Interstate 435 to Interstate 70.

(b) The board or the foundation on behalf of the board may undertake a project. Such a project may be undertaken in one or more phases. Prior to undertaking a project, the board shall adopt a resolution stating its intent to undertake the project, describing the nature of the proposed project, a detailed description of all of the buildings and facilities that are proposed to be constructed or improved in the project area, describing the boundaries of the area in which the proposed project will be undertaken, giving an estimate of the cost of such project and establishing a date for completion of the project. Any addition or changes to the project which are contrary to such resolution shall be ratified by the same procedure as the original resolution of intent.

(c) If the project area identified by the resolution adopted by the board requires the project area be expanded outside of the boundaries of the college's campus, the governing body of the county in which such property is located first shall approve the boundaries of the project area after holding a public hearing. Prior to holding the public hearing, the governing body shall adopt a resolution stating that such boundaries are subject to approval. Such resolution shall: (1) Give notice that a public hearing will be held to consider the proposed boundaries and fix the date, hour and place of such public hearing; (2) describe the proposed boundaries; (3) describe a proposed project that identifies all of the proposed area and that identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in the project area; and (4) state that the governing body will consider approving such expansion beyond the campus boundaries.

A copy of the resolution providing for the public hearing shall be delivered to the board of education of any school district levying taxes on property within the proposed project area. The resolution shall be published once in the official county newspaper not less than one week nor more than two weeks preceding the date fixed for the public hearing. If the resolution approving the boundaries of the project area is adopted by the governing body of the county, no sales tax increment collected from taxpayers doing business within the project area, but outside the boundaries of the college campus shall be pledged pursuant to K.S.A. 74-8937 as debt service for payment of principle and interest on any bonds issued for the project until it is first subject to a county-wide election and has received the approval of a majority of the electors of the county voting thereon at an election held pursuant to the notice, publication and other election procedures prescribed by K.S.A. 12-187 and amendments thereto.

(d) Any project may be undertaken in separate development phases. Any project shall be completed on or before the final scheduled maturity of the first series of bonds issued to finance the project.

(e) Any moneys which represent the increment as defined by K.S.A. 74-8936, and amendments thereto, shall be apportioned to a special fund established by the Kansas development finance authority for the payment of the costs of the project, including the payment of principal and interest on any bonds issued to finance such project pursuant to this act and may be pledged to the payment of principal and interest on such bonds. The maximum maturity of bonds issued to finance projects pursuant to this act shall not exceed 30 years from the date of the issuance of the bonds to finance the project.

(f) Before any project is undertaken, the board shall enter into a contract with the lowest responsible bidder among nationally recognized consultants for the preparation of a comprehensive feasibility study. The study shall include:

- (1) A determination of whether sufficient revenues may be pledged to pay the debt service on bonds issued to finance the project;
- (2) an estimate of revenues likely to be realized through existing sources of income which may be pledged to finance such bonds;
- (3) an identification of other sources of revenue which might be necessary to be pledged to finance the bonds;
- (4) an identification of future economic trends which may affect the feasibility of the project;
- (5) an identification of opportunity costs created by the project; and

(6) any other considerations which may be relevant to determining the feasibility of the project.”;

And by renumbering the remaining sections accordingly;

Also on page 12, in line 16, by striking “and 12-1774” and inserting “, 12-1774 and 74-8936”; in line 19, by striking “statute book” and inserting “Kansas register”;

In the title, in line 14, by striking “and”, where it appears the first time, and inserting a comma; also in line 14, following “12-1774” by inserting “and 74-8936”; and the bill be passed as amended.

The Committee on **Insurance** recommends **Sub. SB 144** be amended on page 2, in line 27, by striking “farm”; in line 28, by striking “owners” and inserting “farmowners”;

On page 5, in line 29, preceding “The” by inserting “(a)”; also in line 29, by striking “may conduct research” and inserting “shall gather data”; following line 31, by inserting:

“(b) The commissioner shall report to the president and minority leader of the senate and the speaker and minority leader of the house of representatives by January 26, 2005, on issues relating to the use of credit history in the underwriting and rating of personal insurance and the implementation of this act.”; and the substitute bill be passed as amended.

The Committee on **Local Government** recommends **SB 237**, as amended by Senate Committee, be amended on page 2, in line 31, by striking “shall” where it appears for the first time and inserting “may”; and the bill be passed as amended.

The Committee on **Local Government** recommends **SB 238** be amended on page 1, by striking all in lines 15 through 43;

By striking all on pages 2 through 7;

On page 8, by striking all in lines 1 through 11; following line 11, by inserting:

“Section 1. The provisions of this act shall be known and may be cited as the competitive livestock markets act.

Sec. 2. As used in the competitive livestock act, and amendments thereto:

(a) “Packer” means any person engaged in the business of:

(1) Buying more than 5,000 animal units of livestock per year in commerce for purpose of slaughter;

(2) manufacturing or preparing meats or meat food products for sale or shipment in commerce; or

(3) marketing meats, meat food products or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce.

(b) “Animal units” means the same as prescribed by K.S.A. 65-171d, and amendments thereto.

Sec. 3. It shall be unlawful for any packer with respect to livestock, meats, meat products, livestock products in unmanufactured form to:

(a) Engage in or use any unfair, unjustly discriminatory or deceptive practice or device;

(b) make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject any particular person or locality to any unreasonable prejudice or disadvantage in any respect whatsoever;

(c) sell or otherwise transfer to or for any other packer or buy or otherwise receive from or for any other packer any article for the purpose or with the effect of apportioning the supply between any such persons if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly;

(d) sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of buying, selling or dealing in any article, or of restraining commerce;

(e) engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of buying, selling, dealing in any article or of restraining commerce;

(f) conspire, combine, agree or arrange with any other person to apportion territory for carrying on business, to apportion purchases or sales of any article or to manipulate or control prices; or

(g) conspire, combine, agree or arrange with any other person to do, or aid or abet the doing of any act made unlawful by subsections (a), (b), (c), (d) or (e).

Sec. 4. (a) The attorney general or any county or district attorney may bring an action:

- (1) To obtain a declaratory judgment that an act or practice violates this act;
- (2) to enjoin, or to obtain a restraining order against a packer who has violated, is violating or is otherwise likely to violate this act;
- (3) to recover damages on behalf of a person by reason of violations of this act; and
- (4) to recover reasonable expenses and investigation fees.

(b) In lieu of instigating or continuing an action or proceeding, the attorney general may accept a consent judgment with respect to any act or practice declared to be a violation of this act. Such a consent judgment shall provide for the discontinuance by the packer of any act or practice declared to be a violation of this act, and it may include a stipulation for the payment by such packer of reasonable expenses and investigation fees incurred by the attorney general. Any consent judgment entered into pursuant to this section shall not be deemed to admit the violation, unless it does so by its terms. Before any consent judgment entered into pursuant to this section shall be effective, it must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of such consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

(c) In any action brought by the attorney general or the county or district attorney, the court may, without requiring bond of the attorney general or the county or district attorney:

- (1) Make such orders or judgments as may be necessary to prevent the use or employment by a packer of any practices declared to be a violation of this act;
- (2) make such orders or judgments as may be necessary to compensate any person for damages sustained;
- (3) revoke any license or certificate authorizing that packer to engage in business in this state;
- (4) issue a temporary restraining order or enjoin any packer from engaging in business in this state;
- (5) award reasonable expenses and investigation fees, civil penalties and costs; and
- (6) grant other appropriate relief.

Sec. 5. (a) Whether a person seeks or is entitled to damages or otherwise has an adequate remedy at law or in equity, a person aggrieved by an alleged violation of this act may bring an action to:

- (1) Obtain a declaratory judgment that an act or practice violates this act; or
- (2) enjoin or obtain a restraining order against a packer who has violated, is violating or is likely to violate this act.

(b) A person who suffers a loss as a result of a violation of this act may bring an individual or a class action for the damages caused by any violation of this act together with reasonable attorney fees.

Sec. 6. Every packer shall keep such accounts, records and memoranda to fully and correctly disclose all transactions involved in such person's business, including the true ownership of such business by stockholders or otherwise. Whenever the attorney general finds that the accounts, records and memoranda of such person do not fully and correctly disclose all transactions involved in such person's business, the attorney general may prescribe the manner and form in which such accounts, records and memoranda shall be kept. Any such person who fails to keep such accounts, records and memoranda in the manner and form prescribed or approved by the attorney general is guilty of a nonperson misdemeanor and shall be subject to a fine of not more than \$5,000 or imprisonment of not more than three years, or both.

Sec. 7. The attorney general shall be responsible for enforcement of this act and shall promulgate such rules and regulations and make orders as may be necessary to carry out the provisions of this act. The attorney general, to carry out the provisions of this act, may cooperate with any state department, agency or any local municipality and any department or agency of the federal government and state, territory, district or possession or department or agency or political subdivision thereof or any person.”;

By renumbering section 13 as section 8;

In the title, by striking all in lines 10, 11 and 12 and inserting:

“AN ACT concerning livestock; enacting the competitive livestock markets act.”; and the bill be passed as amended.

The Committee on **Taxation** recommends **HB 2287** be passed.

The Committee on **Utilities** recommends **Sub. SB 104** be amended on page 1, in line 18, by striking “or transmission”; by striking all in lines 19 through 21; in line 22, by striking “(5)” and inserting “(4)”; in line 25, by striking “(6)” and inserting “(5)”; in line 26, after “thereto” by inserting “; and

(6) “transmission facility” means: (A) Any existing line, and supporting structures and equipment, being upgraded for the transfer of electricity with an operating voltage of 115 kilovolts or more of electricity; or (B) any new line, and supporting structures and equipment, being constructed for the transfer of electricity with an operating voltage of 230 kilovolts or more of electricity”;

Also on page 1, in line 28, by striking “new”; in line 43, before “If” by inserting “The commission’s determination on a petition filed pursuant to this subsection (b) shall apply to only the issues and estimated expenditures specifically contained in the petition. Any additional issues and expenditures that are identified subsequently shall be considered by the commission in separate proceedings.”;

On page 2, in line 1, by striking all after “date”; by striking all in line 2; in line 3, by striking all before “be” and inserting “the petition is filed, the petition shall”; in line 4, by striking all after “commission”; in line 5, by striking all before the period; in line 11, by striking the first “new”; in line 20, by striking “conserva-”; by striking all in line 21; in line 22, by striking all before “the” and inserting “demand side management and conservation programs on which the public utility and its customers receive a return over the life of the program that is greater than the program’s implementation and administrative costs; (B)”; in line 23, by striking “(D)” and inserting “(C)”; in line 39, before “If” by inserting “The commission’s determination on a petition filed pursuant to this subsection (c) shall apply to only the issues and estimated expenditures specifically contained in the petition. Any additional issues and expenditures that are identified subsequently shall be considered by the commission in separate proceedings.”; in line 40, by striking all after “date”; by striking all in line 41; in line 42, by striking all before “be” and inserting “the petition is filed, the petition shall”; in line 43, by striking all after “commission”;

On page 3, in line 1, by striking all before the period; and the substitute bill be passed as amended.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was thereupon introduced and read by title:

HB 2462, An act repealing K.S.A. 2002 Supp. 79-258 and 79-259, concerning certain property tax exemptions, by Committee on Taxation.

MESSAGE FROM THE SENATE

Announcing passage of **SB 29**, **SB 136**, **SB 197**, **SB 239**, **SB 259**.

Announcing passage of **HB 2055**, **HB 2118**, **HB 2182**, **HB 2189**, **HB 2343**.

Announcing passage of **HB 2015**, as amended; **HB 2034**, as amended; **HB 2038**, as amended; **HB 2068**, as amended; **HB 2088**, as amended; **HB 2155**, as amended; **HB 2161**, as amended; **HB 2224**, as amended; **HB 2233**, as amended.

Announcing adoption of **HCR 5008**.

The Senate concurs in House amendments to **SB 74**.

The Senate concurs in House amendments to **SB 132**.

The Senate concurs in House amendments to **SB 151**.

The Senate concurs in House amendments to **SB 199**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:

SB 29, **SB 136**, **SB 197**, **SB 239**, **SB 259**.

On motion of Rep. Aurand, the House recessed until 2:00 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker Mays in the chair.

On motion of Rep. Aurand, the House went into Committee of the Whole, with Rep. Hayzlett in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Hayzlett, Committee of the Whole report, as follows, was adopted:

Recommended that **SB 57**; **HB 2267** be passed.

HCR 5016; **SCR 1609**, **SCR 1610** be adopted.

Committee report to **Sub. SB 83** be adopted; also, roll call was demanded on motion of Rep. Holland to amend on page 17, after line 43 by inserting the following:

“New Sec. 25. On or before July 1, 2004, during the regular legislative session of 2004, the legislature shall provide appropriations for the k-12 education budget for fiscal years 2005 and 2006. The school districts shall receive such funds in accordance with the provisions of law prescribing such disbursements. Nothing in this act shall require or be construed to require school districts to receive two years of funding at one time or during a single fiscal year. During the regular legislative session of 2005 and during the regular legislative session held in each year thereafter, the legislature shall provide appropriations for the k-12 education budget for the next succeeding fiscal year.

Sec. 26. K.S.A. 2002 Supp. 75-3717 is hereby amended to read as follows: 75-3717. (a) As provided in this section, each state agency, not later than October 1 of each year, shall file with the division of the budget its budget estimates for the next fiscal year, and all amendments and revisions thereof, except that, in lieu of such annual filing, each agency listed in subsection (f), not later than October 1, 2000, and every two years thereafter, shall file budget estimates for the next fiscal year and for the ensuing fiscal year thereafter. Each agency listed in subsection (f) may file adjustments to such agency's budget that was approved by the legislature during a prior fiscal year. All such budget estimates shall be in the form provided by the director of the budget. Each agency's budget estimates shall include:

(1) A full explanation of the agency's request for any appropriations for the expansion of present services or the addition of new activities, including an estimate of the anticipated expenditures for the next fiscal year and for each of the three ensuing fiscal years which would be required to support each expansion of present services or addition of new services as requested by the state agency; and

(2) a listing of all programs of the agency that provide services for children and their families and the following information regarding each such program: Of the amount of the agency's request for appropriations to fund the program, that amount which will be spent on services for children or families with children and the number of children or families with children who are served by the program.

(b) At the same time as each state agency submits to the division of the budget a copy of its budget estimate, and all amendments and revisions thereof, each such state agency shall submit a copy of such estimate, and all amendments and revisions thereof, directly to the legislative research department for legislative use.

(c) The director of the budget shall require the agencies to submit a sufficient number of copies of their budget estimates, and all amendments and revisions thereof, to the director's office to satisfy the requirements of such office and one additional copy for legislative use which shall be retained in the division of the budget until the budget of the governor is submitted to the legislature. On or before the day that such budget is submitted to the legislature such legislative use copy, posted to reflect the governor's budget recommendations, shall be submitted to the legislative research department for use by the ways and means committee of the senate and the committee on appropriations of the house of representatives. Following presentation of the governor's budget report to the legislature, the

legislative research department may request and shall receive detailed information from the division of the budget on the governor's budget recommendations.

(d) The director of the budget may prepare budget estimates for any state agency failing to file a request.

(e) As used in this section, "services for children and their families" includes but is not limited to any of the following services, whether provided directly or made accessible through subsidies or other payments:

- (1) Financial support for children and families with children or enforcement of the obligation to support a child or a family with one or more children;
- (2) prenatal care, health care for children or immunizations for children;
- (3) mental health or retardation services for children;
- (4) nutrition for children or families with children or nutritional counseling or supplements for pregnant or nursing women;
- (5) child care, early childhood education or parenting education;
- (6) licensure or regulation of child care or early childhood education programs;
- (7) treatment, counseling or other services to preserve families;
- (8) care, treatment, placement or adoption of children without functioning families;
- (9) services to prevent child abuse and to treat and protect child abuse victims;
- (10) services for children who are pregnant, substance abusers or otherwise involved in high risk behavior;
- (11) services related to court proceedings involving children; and
- (12) youth employment services.

(f) On a biennial basis, the following state agencies shall file budget estimates under the provisions of subsection (a): Abstracters' board of examiners, behavioral sciences regulatory board, board of accountancy, board of examiners in optometry, board of nursing, consumer credit commissioner, Kansas board of barbering, Kansas board of examiners in fitting and dispensing of hearing aids, Kansas dental board, Kansas real estate commission, Kansas state board of cosmetology, office of the securities commissioner of Kansas, real estate appraisal board, state bank commissioner, state board of healing arts, state board of mortuary arts, state board of pharmacy, state board of technical professions, state board of veterinary examiners, governmental ethics commission and state department of credit unions.

(g) *The department of education shall provide budget estimates for k-12 education as provided by section 25, and amendments thereto.*

Sec. 27. K.S.A. 75-6701 is hereby amended to read as follows: 75-6701. (a) On or before each December 4 and on or before each April 4, the director of the budget and the director of the legislative research department shall prepare a joint estimate of revenue to the state general fund for the current fiscal year and the ensuing fiscal year *and beginning in 2004, for the current fiscal year and for each of the two ensuing fiscal years.*

(b) If prior to final adjournment of any regular session of the legislature any law is enacted providing for additional or less revenues to be deposited in the state treasury to the credit of the state general fund, the director of the budget and the director of the legislative research department shall prepare a joint estimate of such revenues.

(c) In the event of a disagreement or failure to agree upon a joint estimate of revenue pursuant to subsection (a) or (b), the legislature shall utilize the estimates of the director of the legislative research department and the governor shall utilize the estimates of the director of the budget.;

Renumbering the remaining sections accordingly;

On page 18, in line 3, after "75-6110" by inserting ", 75-6701"; also in line 3, after "79-2927" by inserting "and K.S.A. 2002 Supp. 75-3717";

On page 1, in the title, in line 13, after the semicolon by inserting "relating to biennial budget estimates and funding;"; in line 16, after "75-6110" by inserting ", 75-6701"; also in line 16, after "79-2927" by inserting "and K.S.A. 2002 Supp. 75-3717";

On roll call, the vote was: Yeas 57; Nays 59; Present but not voting: 0; Absent or not voting: 9.

Yeas: Ballard, Betts, Boyer, Burgess, Burroughs, Carlin, Carter, Crow, Davis, DeCastro, Dillmore, Feuerborn, Flaharty, Flora, Gatewood, Gilbert, Grant, Henderson, Henry, Holland, Howell, Jack, Kirk, Klein, Kuether, Larkin, Loganbill, McKinney, J. Miller, Minor,

Neighbor, Nichols, O'Malley, Pauls, Peterson, Powers, Reardon, Rehorn, Ruff, Sawyer, B. Sharp, S. Sharp, Showalter, Shriver, Sloan, Storm, Svaty, Swenson, Thimesch, Thull, Tolkes, Vickrey, Ward, J. Williams, Wilson, Winn, Yoder.

Nays: Aurand, Ballou, Barbieri-Lightner, Beggs, Brunk, Campbell, Compton, Cox, Craft, Dahl, Decker, Dreher, Edmonds, Faber, Freeborn, Goering, Goico, Gordon, Hayzlett, Hill, Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kassebaum, Kauffman, Krehbiel, Light, P. Long, Loyd, Mason, Mays, McCreary, McLeland, Merrick, F. Miller, Judy Morrison, Neufeld, Newton, Novascone, O'Neal, Ostmeyer, Owens, Patterson, Pottorff, Powell, Reitz, Schwab, Siegfried, Tafanelli, Wilk, D. Williams, Yonally.

Present but not voting: None.

Absent or not voting: Bethell, Landwehr, M. Long, Jim Morrison, Myers, Osborne, Phelps, Schwartz, Shultz.

The motion of Rep. Holland did not prevail.

Also, on motion of Rep. McLeland **Sub. SB 83** be amended on page 16, in line 18, by striking "teachers and" and inserting "persons employed full-time as classroom teachers; (3)"; in line 19, after "employees" where it appears for the first time, by inserting "who are not employed full-time as classroom teachers"; also in line 19, by striking "(3)" and inserting "(4)"; also in line 19, by striking "(4)" and inserting "(5)"; in line 20, by striking "and" and inserting a comma; also in line 20, after "(3)", by inserting "and (4)"; and **Sub. SB 83** be passed as amended.

Committee report to **SB 120** be adopted; also, roll call was demanded on motion of Rep. Carter to amend on page 1, in line 20, after "1.," by inserting "On and after July 1, 2003,";

On page 2, in line 26, following "2." by inserting "On and after July 1, 2003,";

On page 3, following line 37, by inserting the following:

"Sec. 3. K.S.A. 72-8801 is hereby amended to read as follows: 72-8801. (a) The board of education of any school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate for a period of not to exceed five years upon the taxable tangible property in the school district for the purposes specified in this act the purpose of providing revenue for the capital outlay fund to finance expenditures authorized by K.S.A. 72-8804, and amendments thereto, and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. No such levy shall be made under this act until a resolution is adopted by the board of education in the following form:

Unified School District No. _____,

_____ County, Kansas.

RESOLUTION

Be It Resolved that:

The above-named school board shall be authorized to make an annual tax levy for a period not to exceed _____ years in an amount not to exceed _____ mills upon the taxable tangible property in the school district for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of buildings necessary for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, architectural expenses incidental thereto, the acquisition of building sites, the undertaking and maintenance of asbestos control projects, the acquisition of school buses and the acquisition of other equipment _____ and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. The tax levy authorized by this resolution may be made; unless a petition in opposition to the same, signed by not less than 10% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 40 days after the last publication of this resolution. In the event If a valid petition is filed, the county election officer shall submit the question of whether the tax levy shall be authorized to the electors in the school district at an election called for the such purpose or at the next general election, as is specified by the board of education of the above school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. _____, _____ County, Kansas, on the _____ day of _____, 19 ____.

Clerk of the above board of education.

All of the blanks in the above resolution shall be appropriately filled. ~~The blank preceding the word "years" shall be filled with a specific number, and the blank preceding the word "mills" shall be filled with a specific number, and no word shall be inserted in either of the blanks.~~ The resolution shall be published *at least* once a week for two consecutive weeks in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board of education may make the tax levy specified in the resolution. If a *valid* petition is filed as provided in the resolution, the board of education may notify the county election officer of the date of an election to be held to submit the question of whether the tax levy shall be authorized. If the board of education fails to notify the county election officer within 60 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board of education within the nine months following the first publication of the resolution.

(b) As used in ~~this act~~ K.S.A. 72-8801 *et seq.*, and amendments thereto:

(1) "Unconditionally authorized to make a capital outlay tax levy" means that the school district has adopted a resolution under this section, has published the same, and either that the resolution was not protested or that it was protested and an election has been held by which the tax levy specified in the resolution was approved;

(2) "Statutorily prescribed mill rate" means four mills or the mill rate necessary to produce the same amount of money that would have been produced by a levy of four mills in the 1988-89 school year; *The provisions of this paragraph shall be subject to K.S.A. 2002 Supp. 79-5040, and amendments thereto.*

(3) "Asbestos control project" means any activity which is necessary or incidental to the control of asbestos-containing material in buildings of school districts and includes, but not by way of limitation, any activity undertaken for the removal or encapsulation of asbestos-containing material, for any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation, for conducting inspections, re-inspections and periodic surveillance of buildings, performing response actions, and developing, implementing and updating operations and maintenance programs and management plans;

(4) "Asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite/grunerite), anthophyllite, tremolite, and actinolite; ~~and~~

(5) "Asbestos-containing material" means any material or product which contains more than 1% asbestos.

(6) "Utility services" means utility services provided to school facilities including, but not limited to, gas, electric, water, telephone, sewage and solid waste disposal.

(7) "Insurance" means property, fire, casualty and liability insurance.

Sec. 4. K.S.A. 72-8804 is hereby amended to read as follows: 72-8804. (a) *If the resolution adopted under K.S.A. 72-8801, and amendments thereto, so specified*, any moneys in the capital outlay fund of any school district and any moneys received from issuance of bonds under K.S.A. 72-8805 or 72-8810, and amendments thereto, may be used for ~~the~~ purpose of:

(1) The acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of buildings necessary for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board of education; *and* architectural expenses incidental thereto;

(2) The acquisition of building sites;

(3) The undertaking and maintenance of asbestos control projects;

(4) The acquisition of school buses ~~and~~

(5) *The acquisition of computer software and other technology expenses.*

(6) The acquisition of other equipment.

(7) *Cost of utility services.*

(8) *Insurance premiums.*

(b) *The authority to levy a tax or issue bonds pursuant to K.S.A. 72-8801 et seq., and amendments thereto, for the purposes specified in paragraphs (5), (7) and (8) of subsection (a) shall expire on June 30, 2006.*

(c) The board of education of any school district ~~is hereby authorized to~~ *may* invest any portion of the capital outlay fund of the school district which is not currently needed in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein or may invest the same in direct obligations of the United States government maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest whereof is guaranteed by the government of the United States. All interest received on any such investment shall ~~upon receipt thereof~~ be credited to the capital outlay fund.

Sec. 5. K.S.A. 72-8805 is hereby amended to read as follows: 72-8805. Any school district which is unconditionally authorized to make a capital outlay tax levy, in lieu of making all or part of such tax levy, may issue and sell general obligation bonds as now provided by law for the issuance of general obligation bonds for buildings necessary for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board of education of the school district, ~~except that such bonds shall be issued to mature in not more than five years and~~ except that no election shall be required. ~~In the event that~~ *If* bonds are issued under authority of this section, the amount of the bonds which may be issued shall be determined as follows:

(a) Subject to the provisions of subsection (b), the amount of the bonds shall not exceed the amount of the product which results from multiplying the statutorily prescribed mill rate ~~times five~~ times the assessed valuation of the taxable tangible property in the school district at the time the bonds are issued, less the sum of all amounts specified in subsections (c), (d) and (e) of this section.

(b) If the resolution adopted under K.S.A. 72-8801, and amendments thereto, specified a lesser mill rate than the statutorily prescribed mill rate ~~or a lesser number of years than five~~, the ~~respective multipliers~~ *multiplier* specified in subsection (a) of this section shall be reduced accordingly.

(c) The amount of bonds shall be reduced by all amounts which have been or will be received by the school district from any tax levy made under authority of K.S.A. 72-8801, and amendments thereto, before such bonds are issued.

(d) The amount of bonds shall be reduced by the estimated amount of interest to be paid on the bonds.

(e) The amount of bonds shall be reduced by an amount equal to the amount of unpaid principal on bonds which have theretofore been issued under this section.

Sec. 6. K.S.A. 72-8808 is hereby amended to read as follows: 72-8808. ~~Whenever an initial resolution has been adopted under K.S.A. 72-8801, and amendments thereto, and such resolution specified a lesser mill rate than the statutorily prescribed mill rate or a lesser number of years than five, the board of education of the school district may adopt a second resolution under the same procedure as is provided in K.S.A. 72-8801, and amendments thereto, for the initial resolution and subject to the same conditions and for the same purposes as provided in K.S.A. 72-8801, and amendments thereto, and shall be authorized to make such additional tax levy as is specified in such second resolution for the remainder of the five years succeeding the adoption of the initial resolution. Any such second resolution shall be limited in amount as specified in K.S.A. 72-8801, and amendments thereto, less such amount as has been authorized in the initial resolution, and not to exceed the statutorily prescribed mill rate in any one year. In the event that~~ *The board of education of any school district which has adopted a resolution under K.S.A. 72-8801, and amendments thereto, may adopt subsequent resolutions adjusting the amount of the tax levy or the duration of such levy or addressing the uses of the moneys derived from a levy made pursuant to the subsequent resolution. Any moneys in the capital outlay fund of any school district prior to a subsequent resolution, shall not be used for the purposes specified in (a)(5), (a)(7) and (a)(8) of K.S.A. 72-8804, and amendments thereto. Only those moneys collected following the adop-*

tion of a subsequent resolution authorizing the moneys to be used for the specified purposes in subsections (a)(5), (a)(7) and (a)(8) of K.S.A. 72-8804, and amendments thereto, may be used for such purposes. If the board adopts a resolution pursuant to this section, the existing resolution shall remain in force and effect until the resolution adopted pursuant to this section becomes effective. If any such resolution is so adopted and the tax levy therein specified is approved under the conditions specified in K.S.A. 72-8801, and amendments thereto, the amount of bonds which may be issued under K.S.A. 72-8805, and amendments thereto, may be increased accordingly.

Sec. 7. K.S.A. 72-8810 is hereby amended to read as follows: 72-8810. Any school district which ~~is authorized to make a tax levy~~ adopts a resolution under K.S.A. 72-8809, and amendments thereto, may issue and sell general obligation bonds based upon and in lieu of making all or part of such tax levy. Any bonds issued under authority of this section shall be subject to like limitations as bonds issued under K.S.A. 72-8805, and amendments thereto, and shall be issued in the same manner.

Sec. 8. K.S.A. 72-8801, 72-8804, 72-8805, 72-8807, 72-8808, 72-8809 and 72-8810 are hereby repealed.”;

And by renumbering sections accordingly;

Also on page 3, in line 38, following “3.” by inserting “On and after July 1, 2003,”; in line 41, by striking “statute book” and inserting “Kansas register”;

On page 1, in the title, in line 15, following the semicolon where it appears for the second time, by inserting “relating to the capital outlay fund;”; in line 16, by striking “and” where it appears for the first time and inserting a comma; also in line 16, following “72-6760”, by inserting “, 72-8801, 72-8804, 72-8805, 72-8808 and 72-8810”; in line 17, before the period, by inserting “also repealing K.S.A. 72-8807 and 72-8809”;

On roll call, the vote was: Yeas 61; Nays 61; Present but not voting: 0; Absent or not voting: 3.

Yeas: Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Campbell, Carlin, Carter, Cox, Dahl, Davis, Decker, Edmonds, Freeborn, Goering, Gordon, Hayzlett, Hill, Horst, Huebert, Huff, Humerickhouse, Huntington, Huy, D. Johnson, Kauffman, Krehbiel, Landwehr, Light, P. Long, Mason, Mays, McCreary, McLeland, Merrick, Judy Morrison, Neighbor, Newton, Novascone, O’Malley, O’Neal, Osborne, Owens, Patterson, Phelps, Rehorn, Reitz, Schwab, Schwartz, S. Sharp, Showalter, Siegfried, Storm, Tafanelli, Toelkes, Wilk, D. Williams, Yoder, Yonally.

Nays: Aurand, Ballard, Betts, Burroughs, Compton, Craft, Crow, Dillmore, Dreher, Feuerborn, Flaharty, Flora, Gatewood, Gilbert, Goico, Grant, Henderson, Henry, Holland, Holmes, Howell, Hutchins, Jack, E. Johnson, Kassebaum, Kirk, Klein, Kuether, Larkin, Loganbill, M. Long, Loyd, McKinney, F. Miller, J. Miller, Minor, Jim Morrison, Myers, Neufeld, Nichols, Ostmeyer, Pauls, Peterson, Pottorff, Powell, Powers, Reardon, Ruff, Sawyer, Shriver, Shultz, Sloan, Svaty, Swenson, Thimesch, Thull, Vickrey, Ward, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: DeCastro, Faber, B. Sharp.

The motion of Rep. Carter did not prevail.

Also, on motion of Rep. Yonally to amend **SB 120**, the motion was withdrawn and the bill be passed as amended.

Committee report to **SB 64** be adopted; and the bill be passed as amended.

On motion of Rep. Patterson **SB 178** be amended on page 6, after line 25, by inserting the following:

“New Sec. 4. (a) Sections 4 through 13, and amendments thereto, shall be known and may be cited as the transportation development district act.

(b) The powers conferred by this act are for public uses, economic development purposes or purposes for which public money may be expended.

New Sec. 5. As used in sections 4 through 13, and amendments thereto: (a) “Acquire” means the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means and may include the acquisition of existing property and projects already owned by a municipality.

(b) “Act” means the provisions of sections 4 through 13, and amendments thereto.

(c) "Bonds" means special obligation bonds or special obligation notes payable solely from the sources described in section 11, and amendments thereto, issued by a municipality in accordance with the provisions of this act.

(d) "Consultant" means engineers, architects, planners, attorneys and other persons deemed competent to advise and assist the governing body in planning and making of projects.

(e) "Cost" means: (1) All costs necessarily incurred for the preparation of preliminary reports, the preparation of plans and specifications, the preparation and publication of notices of hearings, resolutions, ordinances and other proceedings, necessary fees and expenses of consultants, interest accrued on borrowed money during the period of construction and the amount of a reserve fund for the bonds, together with the cost of land, materials, labor and other lawful expenses incurred in planning and doing any project and may include a charge of not to exceed 5% of the total cost of a project or the cost of work done by the municipality to reimburse the municipality for the services rendered by the municipality in the administration and supervision of such project by its general officers; and (2) in the case of property and projects already owned by the municipality and previously financed by the issuance of bonds, "cost" means costs authorized by K.S.A. 10-116a and amendments thereto.

(f) "District" means a transportation development district created pursuant to this act.

(g) "Governing body" means the governing body of a city or the board of county commissioners of a county.

(h) "Municipality" means any city or county.

(i) "Newspaper" means the official newspaper of the municipality.

(j) "Owner" means the owner or owners of record, whether resident or not, of real property within the district.

(k) "Project" means any project or undertaking, whether within or without the district, to improve, construct, reconstruct, maintain, restore, replace, renew, repair, install, furnish, equip or extend any bridge, street, road, highway access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail or other mass transit facility or any other transportation related project or infrastructure.

(l) "Transportation development district sales tax" means the tax authorized by section 9, and amendments thereto.

New Sec. 6. (a) In addition to any other power provided by law and as a complete alternative to all other methods provided by law, the governing body of any municipality may create a district as provided by this act for the purpose of financing projects. A municipality may create a district, or may modify a previously created district, upon receipt of a petition signed by the owners of all of the land area within the proposed district. The petition shall contain: (1) The general nature of the proposed project;

(2) the estimated cost of the project;

(3) the proposed method of financing the project;

(4) the proposed amount and method of assessment;

(5) the proposed amount of transportation development district sales tax; and

(6) a map or boundary description of the proposed district.

(b) Names may not be withdrawn from the petitions by the signers thereof after the governing body commences consideration of the petitions or later than seven days after such filing, whichever occurs first. The petition shall contain a notice that: (1) The names of the signers may not be withdrawn after such a period of time; and (2) the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.

(c) Upon filing of the petition for a district financed only by assessments, the governing body may proceed without notice or a hearing to make findings by resolution or ordinance as to the nature, advisability and estimated cost of the project, the boundaries of the district and the amount and method of assessment. Upon making such findings the governing body may authorize the project in accordance with such findings as to the advisability of the project. The resolution or ordinance shall be effective upon publication once in a newspaper.

(d) The district boundaries and the method of financing for the project shall not require that all property that is benefited by the project, whether the benefited property is within or without the district, be included in the district or be subject to an assessment or the transportation development district sales tax.

(e) Following authorization of the project, the petition shall be submitted for recording in the office of the register of deeds of the county in which the district is located.

New Sec. 7. In addition to any other power provided by law and as a complete alternative to all other methods provided by law, the governing body may make, or cause to be made, projects identified in the petition submitted pursuant to section 6 or 8 and amendments thereto and may levy and collect special assessments upon property in the district and provide for the payment of all or any part of the cost of the project out of the proceeds of such special assessments. If special assessments will be levied to finance all or a portion of the cost of a project, the municipality shall follow the assessment procedures in K.S.A. 12-6a01 *et seq.*, and amendments thereto, except that no assessments may be levied against the municipality at large and no full faith and credit notes or bonds may be issued by the municipality to finance a project under this act.

New Sec. 8. (a) Upon filing a petition in accordance with section 6 and amendments thereto for a district financed in whole or in part by a proposed transportation development district sales tax authorized by section 9 and amendments thereto, the municipality shall adopt a resolution stating its intention to levy such transportation development district sales tax, and give notice of the public hearing on the advisability of creating the district and financing of the project. Such notice shall be published at least once each week for two consecutive weeks in the newspaper and shall be sent by certified mail to all owners. The second notice shall be published at least seven days prior to the date of hearing and the certified mailed notice shall be sent at least 10 days prior to the date of hearing. Such notice shall contain the following information:

- (1) The time and place of the hearing;
- (2) the general nature of the proposed project;
- (3) the estimated cost of the project;
- (4) the proposed method of financing of the project;
- (5) the proposed amount of the transportation development district sales tax;
- (6) the proposed amount and method of assessment, if any; and
- (7) a map or boundary description of the proposed district.

(b) The hearing on the advisability of the creating of the district and the financing of the project may be adjourned from time to time. Following the hearing or any continuation thereof, the governing body may create the district, authorize the project and approve the estimated cost of the project, the boundaries of the district and the method of financing by adoption of the appropriate ordinance or resolution. Such ordinance or resolution shall become effective upon publication once in the newspaper, unless, within 30 days after the commencement of the hearing, a petition requesting an election upon such question and signed by at least 5% of the owners submitted to the clerk of the municipality. An election of the owners shall then be called and held thereon, in accordance with subsection (b) of section 9 and amendments thereto.

New Sec. 9. (a) In addition to and notwithstanding any limitations on the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197, and amendments thereto, any municipality may impose a transportation development district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within a transportation development district for purposes of financing a project in such district in any increment of .10% or .25% not to exceed 1% and pledging the revenue received therefrom to pay the bonds issued for the project. Any transportation development district sales tax imposed pursuant to this section shall expire no later than the date the bonds issued to finance such project or refunding bonds issued therefore shall mature.

(b) Any municipality proposing to impose a transportation development district sales tax authorized by this section shall adopt a resolution stating its intention to levy such tax. Such notice shall contain the information for notices set forth in subsections (a)(2), (a)(3), (a)(4), (a)(5), (a)(6) and (a)(7) of section 8 and amendments thereto and shall be published at least once each week for two consecutive weeks in the newspaper. If within 30 days after

the last publication of the notice a petition signed by at least 5% of the owners is submitted to the clerk of the municipality requesting an election upon such question, an election of the owners shall be called and held thereon. If the information in such notice is identical to the information included in such categories in the notice provided in subsection (a) of section 8 and amendments thereto, the notice and protest requirements set forth in this section are deemed satisfied by compliance with the notice, hearing and protest requirement of section 8 and amendments thereto. Such election shall be called and held in the manner provided by K.S.A. 25-431 *et seq.*, and amendments thereto. If no protest or no sufficient protest is filed or if an election is held and the proposition carries by a majority of the owners voting thereon, the governing body, by resolution or ordinance, may levy such tax. Except as provided in this act, the tax authorized by this section shall be administered, collected and subject to provisions of K.S.A. 12-187 to 12-197, inclusive, and amendments thereto.

(c) Upon receipt of a certified copy of the resolution or ordinance authorizing the levy of the transportation development district sales tax pursuant to this section, the state director of taxation shall cause such tax to be collected in the district at the same time and in the same manner provided for the collection of the state retailers' sales tax. All of the taxes collected under the provisions of this act shall be remitted by the secretary of revenue to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, and the state treasurer shall credit 2% of all taxes so collected to the state general fund to defray the expenses of the department in administration and enforcement of the collection thereof. The remainder of such taxes shall be credited to the transportation development district sales tax fund, which fund is hereby established in the state treasury. All moneys in the transportation development district sales tax fund shall be remitted at least quarterly by the state treasurer, on instruction from the secretary of revenue, to the treasurers of those municipalities which are qualified to receive disbursements from such fund the amount collected within such municipality. Any refund due on any transportation development district sales tax collected pursuant to this section shall be paid out of the transportation development district sales tax refund fund which is hereby established in the state treasury and reimbursed by the director of taxation from collections of the transportation development district sales tax authorized by this section. Transportation development district sales tax received by a municipality pursuant to this section shall be deposited in the transportation development district sales tax fund created pursuant to section 12, and amendments thereto.

New Sec. 10. No suit to set aside the assessments or otherwise question the validity of the proceedings for the creation of the district or the authorization of the project shall be brought after the expiration of 30 days from the publication of the ordinance or resolution creating the district. No suit to set aside the transportation development district sales tax shall be brought after the expiration of 30 days from the publication of the ordinance or resolution declaring the intent to impose the transportation development district sales tax.

New Sec. 11. The total cost of any project authorized pursuant to this act shall be paid from all or any of the following sources: (a) Special assessments imposed in the district pursuant to this act which have been paid in full prior to the date set by the governing body as provided in K.S.A. 12-6a10, and amendments thereto;

(b) special assessments imposed in the district pursuant to this act, to be paid in installments;

(c) a pledge of all of the revenue received from the transportation development district sales tax authorized by section 9, and amendments thereto; and

(d) any other funds appropriated by the municipality.

New Sec. 12. A separate fund shall be created for each district and each project and such fund shall be identified by a suitable title. The proceeds from the sale of bonds and any other moneys appropriated by the governing body for such purpose shall be credited to such fund. Such fund shall be used solely to pay the costs of the project. Upon payment of the principal and interest on the bonds, if any, the municipality shall have the authority to spend any moneys remaining in the fund for the purposes for which local sales tax receipts may be spent.

New Sec. 13. (a) Any municipality may issue bonds in one or more series to finance the undertaking of any project in accordance with the provisions of this act. Such bonds shall be made payable, both as to principal and interest solely from a pledge of the sources of funds described in section 11, and amendments thereto. The municipality may pledge such revenue to the repayment of such bonds prior to, simultaneously with or subsequent to the issuance of such bonds, except for any revenues received under the provisions of subsection (d) of section 11 and amendments thereto, which revenues are subject to annual appropriation.

(b) Bonds issued pursuant to subsection (a) shall not be general obligations of the municipality, give rise to a charge against its general credit or taxing powers, or be payable out of any funds or properties other than any of those set forth in subsection (a) and such bonds shall so state on their face.

(c) Bonds issued pursuant to subsection (a) shall be special obligations of the municipality and are declared to be negotiable instruments. Such bonds shall be executed by the authorized representatives of the municipality and sealed with the corporate seal of the municipality. All details pertaining to the issuance of the bonds and terms and conditions thereof shall be determined by ordinance or resolution of the municipality. The provisions of K.S.A. 10-106, and amendments thereto, requiring a public sale of bonds shall not apply to bonds issued under this act. All bonds issued pursuant to this act and all income or interest therefrom shall be exempt from all state taxes except inheritance taxes. Such bonds shall contain none of the recitals set forth in K.S.A. 10-112, and amendments thereto. Such bonds shall contain the following recitals: The authority under which such bonds are issued; that such bonds are in conformity with the provisions, restrictions and limitations thereof; and that such bonds and the interest thereon are to be paid from the money and revenue received as provided in subsection (a) such bonds shall mature in no more than 22 years.

(d) Any municipality issuing bonds under the provisions of this act may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(e) Bonds issued under the provisions of this act shall be in addition to and not subject to any statutory limitation of bonded indebtedness imposed on such municipality.

Sec. 14. K.S.A. 2002 Supp. 12-194 is hereby amended to read as follows: 12-194. No city or county shall levy or impose an excise tax or a tax in the nature of an excise, other than a retailers' sales tax and a compensating use tax, upon the sale or transfer of personal or real property, or the use thereof, or the rendering of a service, but the provisions of this section shall not be construed as prohibiting any city from (a) contracting with a utility for a fixed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege or franchise to such utility; (b) imposing an occupation tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from the sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee; ~~or (c) levying any occupation tax or license fee imposed by such city prior to the effective date of this act; or (d) levying a tax for the purpose of financing a transportation development district, created under K.S.A. 2002 Supp. 12-17,130 through 12-17,139, and amendments thereto.~~ No license fee described in subsection (b) of this section shall be imposed upon any utility contracting with and subject to a charge, described in subsection (a) of this section, by such city.

Sec. 15. K.S.A. 2002 Supp. 25-432 is hereby amended to read as follows: 25-432. An election shall not be conducted under this act unless:

(a) Conducted on a date, mutually agreed upon by the governing body of the political or taxing subdivision and the county election officer, not later than 120 days following the date the request is submitted by the political or taxing subdivision; and

(b) the secretary of state approves a written plan for conduct of the election, which shall include a written timetable for the conduct of the election, submitted by the county election officer; and

(c) the election is nonpartisan; and

(d) the election is not one at which any candidate is elected, retained or recalled; and

(e) the election is not held on the same date as another election in which the qualified electors of that subdivision of government are eligible to cast ballots; and

(f) the election is a question submitted election at which all of the qualified electors of one of the following subdivisions of government are the only electors eligible to vote:

- (1) Counties;
 - (2) cities;
 - (3) school districts, except in an election held pursuant to K.S.A. 72-7302 *et seq.*, and amendments thereto;
 - (4) townships;
 - (5) benefit districts organized under K.S.A. 31-301, and amendments thereto;
 - (6) cemetery districts organized under K.S.A. 15-1013 or 17-1330, and amendments thereto;
 - (7) combined sewer districts organized under K.S.A. 19-27,169, and amendments thereto;
 - (8) community college districts organized under K.S.A. 71-1101 *et seq.*, and amendments thereto;
 - (9) fire districts organized under K.S.A. 19-3601 or 80-1512, and amendments thereto;
 - (10) hospital districts;
 - (11) improvement districts organized under K.S.A. 19-2753, and amendments thereto;
 - (12) Johnson county park and recreation district organized under K.S.A. 19-2859, and amendments thereto;
 - (13) sewage disposal districts organized under K.S.A. 19-27,140, and amendments thereto;
 - (14) water districts organized under K.S.A. 19-3501 *et seq.*, and amendments thereto;
- or
- (15) transportation development districts created pursuant to ~~K.S.A. 2002 Supp. 12-17,130~~ *section 4 et seq.*, and amendments thereto.

New Sec. 16. The secretary of revenue in connection with a redevelopment project area for which sales, use and transient guest tax revenues are pledged or otherwise intended to be used in whole or in part for the payment of bonds issued to finance redevelopment project costs in such redevelopment project area or a transportation development district for which a transportation development district sales tax has been imposed, shall provide reports identifying each retailer having a place of business in such redevelopment district or transportation development district setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month and identifying each business location maintained by the retailer within such city or county. Such report shall be made available to the bond trustee, escrow agent or paying agent for such bonds within a reasonable time after it has been requested from the director of taxation. The bond trustee, escrow agent or paying agent shall keep such retailers' sales, use, transient guest and transportation development district sales tax returns and the information contained therein confidential, but may use such information for purposes of allocating and depositing such sales, use, transient guest and transportation development district sales tax revenues in connection with the bonds used to finance redevelopment project costs in such redevelopment project area or used to finance the costs of a project in a transportation development district. Except as otherwise provided, the sales, use and transient guest tax returns received by the bond trustee, escrow agent or paying agent shall be subject to the provisions of K.S.A. 79-3614 and amendments thereto.

New Sec. 17. The provisions of sections 4 through 13 and 16, and amendments thereto, and K.S.A. 12-194 and 25-432, as amended pursuant to this act, shall apply to all transportation development districts, whether created before or after July 1, 2003. The provisions of this act shall not invalidate any transportation development district proceedings held prior to the effective date of this act.”;

And by renumbering sections accordingly;

Also on page 6, in line 26, after “12-6a08” by inserting “and K.S.A. 2002 Supp. 12-194, 12-17,130, 12-17,131, 12-17,132, 12-17,133, 12-17,134, 12-17,135, 12-17,136, 12-17,137, 12-17,138, 12-17,139 and 25-432”;

On page 1, in the title, in line 9, after "cities" by inserting "and counties"; also in line 9, by striking all after "to"; in line 10, by striking "for" and inserting "special benefit districts therein"; also in line 10, after "12-6a08" by inserting "and K.S.A. 2002 Supp. 12-194 and 25-432"; in line 11, after "sections" by inserting "; also repealing K.S.A. 2002 Supp. 12-17,130, 12-17,131, 12-17,132, 12-17,133, 12-17,134, 12-17,135, 12-17,136, 12-17,137, 12-17,138 and 12-17,139"; and **SB 178** be passed as amended.

Committee report to **SB 79** be adopted; also, on motion of Rep. Siegfried to amend, the motion did not prevail.

Also, on motion of Rep. Sloan **SB 79** be amended on page 3, by striking all in line 20; following line 20, by inserting:

"New Sec. 3. The area comprising the county of Douglas is hereby designated as an urban area as permitted by section 17 of article 2 of the constitution of the state of Kansas.

Sec. 4. K.S.A. 19-2680 is hereby amended to read as follows: 19-2680. Any county which has been declared to be an urban area under the provisions of K.S.A. 19-2654 ~~is hereby authorized to~~ or section 3, and amendments thereto, may adopt, and from time to time amend, a charter for the government of such county. Such charter shall provide for the exercise of powers of local legislation and administration not inconsistent with general law or the constitution of the state of Kansas, and may:

(a) Fix the boundaries of each county commissioner's district, provide a method for changing them from time to time, and fix the number, term, and compensation of the commissioners and their method of election, and shall define and outline duties and powers of the county commissioners;

(b) provide for the exercise of such powers similar or identical to the powers permitted under K.S.A. 19-101 and ~~article 39 of chapter 12 of the Kansas Statutes Annotated 12-3901 et seq., and amendments thereto;~~

(c) provide in the charter a method for its amendment;

(d) determine the distribution of legislative and administrative duties of the county officials, provide for consolidation or expansion of services as necessary, authorize the appointment of a county administrator or a county manager, and prescribe the general structure of county government ; and

(e) authorize the appointment of or elimination of elective officials and offices within the charter similar or identical to that authorization permitted the board of county commissioners under ~~article 39 of chapter 12 of the Kansas Statutes Annotated~~ K.S.A. 12-3901 et seq., and amendments thereto.

Sec. 5. K.S.A. 2002 Supp. 19-2681 is hereby amended to read as follows: 19-2681. (a) The board of county commissioners of any county which has been declared to be an urban area under the provisions of K.S.A. 19-2654 or section 3, and amendments thereto, may establish a charter commission for such county for the purpose of studying, proposing, drafting or amending a charter for the government of such county. The charter commission shall be established by resolution and shall be appointed in the manner and have the powers and duties as hereinafter provided.

(b) A new charter commission shall not be established until four years after the date of the establishment of a prior commission.

Sec. 6. K.S.A. 2002 Supp. 19-2685 is hereby amended to read as follows: 19-2685. (a) The proposed charter shall be submitted by the charter commission to the board of county commissioners ~~and~~. Subject to the provisions of subsection (b), the board of county commissioners shall submit the proposed charter to the electors of the county at the general election next following submission of the final report in which all qualified electors of the county are eligible to vote. In submitting such proposed charter to the board of county commissioners, the charter commission may submit alternative sections or articles to the board of county commissioners. Any alternative sections or articles shall be submitted by the board of county commissioners for approval or rejection by the electors. Any section or article of a proposed charter which affects the size or structure of the board of county commissioners may be submitted at the same election at which the proposed charter is submitted but shall be submitted as a separate question on the ballot. An affirmative vote of a majority of the qualified electors voting on the question shall be required for the adoption of such charter.

(b) *The board of county commissioners of a county designated an urban area pursuant to section 3, and amendments thereto, may reject a proposed charter submitted to such board pursuant to subsection (a). If the board rejects the proposed charter, the charter shall not be submitted for approval to the electors of the county and such proposed charter shall not be adopted.*

Sec. 7. K.S.A. 19-2686 is hereby amended to read as follows: 19-2686. (a) No member of the charter commission shall be eligible for election to the office of county commissioner in the first election for county commissioner under the charter if adopted by the electorate.

(b) *The provisions of subsection (a) shall not apply to a county designated an urban area pursuant to section 3, and amendments thereto.*

Sec. 8. K.S.A. 12-523, 12-751a, 19-2680 and 19-2686 and K.S.A. 2002 Supp. 19-2681 and 19-2685 are hereby repealed.”;

By renumbering section 4 as section 9;

In the title, by striking all in lines 13 through 16 and inserting:

“AN ACT concerning political subdivisions of the state; relating to cities and counties; amending K.S.A. 12-523, 12-751a, 19-2680 and 19-2686 and K.S.A. 2002 Supp. 19-2681 and 19-2685 and repealing the existing sections.”; and **SB 79** be passed as amended.

SB 63 be passed over and retain a place on the calendar.

Committee report to **HCR 5017** be adopted; and the resolution be adopted as amended.

Committee report to **HCR 5019** be adopted; and the resolution be adopted as amended.

Committee report to **HR 6016** be adopted; and the resolution be adopted as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Corrections and Juvenile Justice** recommends **SB 33** be amended on page 4, in line 15, by striking “In” and inserting “Except as provided in paragraph (5), in”; in line 17, following “vehicle” by inserting “or vehicles”; also in line 17, following “immobilized” by inserting “for a period of one year”; in line 21, by striking “owned or”; in line 22, by striking the colon; in line 23, by striking all before “motor” and inserting “the”; in line 24, by striking the semicolon; by striking all in lines 25 through 29; in line 30, by striking all before the period; in line 32, following vehicle, by inserting “or vehicles”; also in line 32, by striking “or driven”; following line 43, by inserting the following:

“(5) As used in this subsection, the convicted person’s motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person’s motor vehicle subject to impoundment or immobilization expires in less than one year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.”;

On page 6, in line 2, by striking “Any” and inserting “Except as provided in paragraph (5), any”; in line 4, following “vehicle” by inserting “or vehicles”; also in line 4, following “immobilized” by inserting “for a period of one year”; in line 8, by striking “owned or”; in line 9, by striking the the colon; in line 10, by striking all before “motor” and inserting “the”; in line 11, by striking the semicolon; by striking all in lines 12 through 16; in line 17, by striking all before the period; in line 19, following “vehicle” by inserting “or vehicles”; also in line 19, by striking “or driven”; following line 30, by inserting the following:

“(5) As used in this subsection, the convicted person’s motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person’s motor vehicle subject to impoundment or immobilization expires in less than one year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.”;

On page 7, in line 26, by striking “(a)”; in line 27, following “8-1567” by inserting “or section 3”; following line 39, by inserting the following:

“New Sec. 3. (a) It shall be unlawful for the owner of a motor vehicle to allow a person to drive such vehicle when such owner knows or reasonably should have known such person was driving in violation of K.S.A. 8-1014, and amendments thereto.

(b) Violation of this section is an unclassified misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000. In addition to the fine imposed upon a person convicted of a violation of this section, the court may order that the convicted person’s motor vehicle or vehicles be impounded or immobilized for a period not to exceed one year and

that the convicted person pay all towing, impoundment and storage fees or other immobilization costs. Prior to ordering the impoundment or immobilization of any such motor vehicle, the court shall consider the factors established in subsection (k)(3) of K.S.A. 8-1567, and amendments thereto. Any personal property in a vehicle impounded or immobilized pursuant to this section may be retrieved prior to or during the period of such impoundment or immobilization.”;

And by renumbering the remaining sections accordingly; and the bill be passed as amended.

The Committee on **Corrections and Juvenile Justice** recommends **SB 67** be amended on page 3, in line 25, after “care” by inserting “received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker”; in line 35, after the period, by inserting “The secretary of social and rehabilitation services shall not summarize the outcome of department actions regarding a child alleged to be a child in need of care in information available to members of such committees.”;

On page 4, in line 5, by striking all after the period; by striking all in lines 6 through 18 and inserting:

“(h) Notwithstanding any other provision of law to the contrary, in the event that child abuse or neglect results in a child fatality or near fatality, reports or records of a child in need of care received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker shall become a public record and subject to disclosure pursuant to K.S.A. 45-215, and amendments thereto. Within seven days of receipt of a request in accordance with the procedures adopted under K.S.A. 45-220, and amendments thereto, the secretary shall notify any affected individual that an open records request has been made concerning such records. The secretary or any affected individual may file a motion requesting the court to prevent disclosure of such record or report, or any select portion thereof. If the affected individual does not file such motion within seven days of notification, and the secretary has not filed a motion, the secretary shall release the reports or records. In reviewing such motion, the court shall consider the effect such disclosure may have upon an ongoing criminal investigation, a pending prosecution, or the privacy of the child, if living, or the child’s siblings, parents or guardians. Nothing herein is intended to require that an otherwise privileged communication lose its privileged character. If the court grants such motion, the court shall make written findings on the record justifying the closing of the records. For reports or records requested pursuant to this subsection, the time limitations specified in this subsection shall control to the extent of any inconsistency between this subsection and K.S.A. 45-218, and amendments thereto. As used in this section, “near fatality” means an act that, as certified by a person licensed to practice medicine and surgery, places the child in serious or critical condition.”;

On page 5, in line 32, by striking all after “(i)”; in line 33, by striking all before the period and inserting “as provided in subsection (h) of K.S.A. 38-1507, and amendments thereto”; and the bill be passed as amended.

The Committee on **Corrections and Juvenile Justice** recommends **SB 123** be amended on page 1, in line 18, after “1.”, by inserting “On and after November 1, 2003.”; in line 20, by striking “the effective date of this act” and inserting “November 1, 2003”; in line 27, before the semicolon, by inserting “or any substantially similar offense from another jurisdiction”; in line 31, before “if”, by inserting “or any substantially similar offense from another jurisdiction.”;

On page 2, in line 6, by striking “who are assigned a high risk status”; in line 7, by striking all after the period; by striking all in line 8; in line 39, after “(3)”, by inserting “one or more”; also in line 39, by striking “to address” and inserting “in”;

On page 3, in line 3, after “(b)”, by inserting “The presentence criminal risk-need assessment shall be conducted by a court services officer or a community corrections officer.”; also in line 3, after “abuse”, by inserting “treatment program placement”; in line 5, by striking “supervision” and inserting “treatment”; in line 12, by striking “can” and inserting “may”; also in line 12, by striking “and/or” and inserting “and”;

On page 4, in line 1, by striking all after “staff”; following line 5, by inserting the following:

“(g) There is hereby established in the state treasury the drug abuse treatment program fund which shall be administered by the executive director of the Kansas sentencing com-

mission. All money credited to the drug abuse treatment program fund shall be used to pay for costs related to the certified drug abuse treatment programs pursuant to this section. All expenditures from the drug abuse treatment program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director of the Kansas sentencing commission or the executive director's designee.”;

On page 6, in line 5, before “K.S.A.”, by inserting “On and after November 1, 2003.”;

On page 7, in line 2, after the semicolon, by inserting “repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson under K.S.A. 21-3718 or 21-3719, and amendments thereto, if the defendant is convicted of such crime;”; in line 6, after “agency”, by inserting “, fire district, fire department or fire company”; in line 9, before the semicolon, by inserting “, fire district, fire department or fire company”;

On page 10, in line 37, by striking “In” and inserting “Except as provided by subsection (f) of K.S.A. 21-4705, and amendments thereto, in”;

On page 11, in line 10, before “K.S.A.”, by inserting “On and after November 1, 2003.”;

On page 15, following line 10, by inserting the following:

“(f) The sentence for a third or subsequent felony conviction of K.S.A. 65-4160 or 65-4162, and amendments thereto, shall be a presumptive term of imprisonment and the defendant shall be sentenced to prison as provided by this section, if the defendant has previously completed a certified drug abuse treatment program, as provided in section 2, and amendments thereto, or has been discharged or refused to participate in a certified drug abuse treatment program, as provided in section 2, and amendments thereto. Such sentence shall not be considered a departure and shall not be subject to appeal.”;

Also on page 15, in line 11, before “K.S.A.”, by inserting “On and after November 1, 2003.”;

On page 16, in line 36, before “K.S.A.”, by inserting “On and after November 1, 2003.”;

On page 19, in line 21, before “violate”, by inserting “subsequently”; in line 23, before the period, by inserting “for any such subsequent violation”; in line 26, before “K.S.A.”, by inserting “On and after November 1, 2003.”;

On page 20, in line 8, before “K.S.A.”, by inserting “On and after November 1, 2003.”;

On page 22, by striking all in lines 27 through 31; following line 31, by inserting the following:

“Sec. 9. K.S.A. 2002 Supp. 41-501 is hereby amended to read as follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and amendments thereto:

(1) “Gallon” means wine gallon.

(2) “Federal area” means any lands or premises which are located within the exterior boundaries of this state and which are held or acquired by or for the use of the United States or any department, establishment or agency of the United States.

(3) “Malt product” means malt syrup, malt extract, liquid malt or wort.

(b) (1) For the purpose of raising revenue a tax is imposed upon the manufacturing, using, selling, storing or purchasing alcoholic liquor, cereal malt beverage or malt products in this state or a federal area at a rate of ~~\$.18~~ \$.27 per gallon on beer and cereal malt beverage; ~~\$.20~~ \$.30 per gallon on all wort or liquid malt; ~~\$.10~~ \$.15 per pound on all malt syrup or malt extract; ~~\$.30~~ \$.45 per gallon on wine containing 14% or less alcohol by volume; ~~\$.75~~ \$1.13 per gallon on wine containing more than 14% alcohol by volume; and ~~\$2.50~~ \$3.78 per gallon on alcohol and spirits.

(2) The tax imposed by this section shall be paid only once and shall be paid by the person in this state or federal area who first manufactures, uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt beverage. The tax shall be collected and paid to the director as provided in this act. If the alcoholic liquor or cereal malt beverage is manufactured and sold in this state or a federal area, the tax shall be paid by the manufacturer, microbrewery or farm winery producing it. If the alcoholic liquor or cereal malt beverage is imported into this state by a distributor for the purpose of sale at wholesale in this state or a federal area, the tax shall be paid by the distributor, and in no event shall such tax be paid by the manufacturer unless the alcoholic liquor or cereal malt beverage is manufactured in this state. If not to exceed one gallon, or metric equivalent, per person of alcoholic liquor

has been purchased by a private citizen outside the borders of the United States and is brought into this state by the private citizen in such person's personal possession for such person's own personal use and not for sale or resale, such import is lawful and no tax payment shall be due thereon.

(c) Manufacturers, microbreweries, farm wineries or distributors at wholesale of alcoholic liquor or cereal malt beverage shall be exempt from the payment of the gallonage tax imposed on alcoholic liquor and cereal malt beverage, upon satisfactory proof, including bills of lading furnished to the director by affidavit or otherwise as the director requires, that the liquor or cereal malt beverage was manufactured in this state but was shipped out of the state for sale and consumption outside the state.

(d) Wines manufactured or imported solely and exclusively for sacramental purposes and uses shall not be subject to the tax provided for by this section.

(e) The tax provided for by this section is not imposed upon:

(1) Any alcohol or wine, whether manufactured in or imported into this state, when sold to a nonbeverage user licensed by the state, for use in the manufacture of any of the following when they are unfit for beverage purposes: Patent and proprietary medicines and medicinal, antiseptic and toilet preparations; flavoring extracts and syrups and food products; scientific, industrial and chemical products; or scientific, chemical, experimental or mechanical purposes; or

(2) the privilege of engaging in any business of interstate commerce or otherwise, which business may not be made the subject of taxation by this state under the constitution and statutes of the United States.

(f) The tax imposed by this section shall be in addition to all other taxes imposed by the state of Kansas or by any municipal corporation or political subdivision thereof.

(g) Retail sales of alcoholic liquor, sales of beer to consumers by microbreweries and sales of wine to consumers by farm wineries shall not be subject to the tax imposed by the Kansas retailers' sales tax act but shall be subject to the enforcement tax provided for in this act.

(h) Notwithstanding any ordinance to the contrary, no city shall impose an occupation or privilege tax on the business of any person, firm or corporation licensed as a manufacturer, distributor, microbrewery, farm winery, retailer or nonbeverage user under this act and doing business within the boundaries of the city except as specifically authorized by K.S.A. 41-310, and amendments thereto.

(i) The director shall collect the taxes imposed by this section and shall account for and remit all moneys collected from the tax to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit ~~1/4~~ of the moneys collected from taxes imposed upon alcohol and spirits under subsection (b)(1) to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and shall credit the balance of the moneys collected to the state general fund, as follows: (1) A sum equal to 33.3% of the moneys collected from taxes imposed upon beer and cereal malt beverage to the drug abuse treatment program fund and the balance of such moneys collected shall be credited to the state general fund; (2) a sum equal to 33.3% of the moneys collected from taxes imposed upon all wort or liquid malt to the drug abuse treatment program fund and the balance of such moneys collected shall be credited to the state general fund; (3) a sum equal to 33.3% of the moneys collected from taxes imposed on malt syrup or malt extract to the drug abuse treatment program fund and the balance of such moneys collected shall be credited to the state general fund; (4) a sum equal to 33.3% of the moneys collected from taxes imposed upon wine containing 14% or less alcohol by volume to the drug abuse treatment program fund and the balance of such moneys collected to the state general fund; (5) 33.3% of the moneys collected from taxes imposed upon wine containing more than 14% alcohol by volume to the drug abuse treatment program fund and the balance of such moneys collected to the state general fund; (6) a sum equal to 6.6% of moneys collected from taxes imposed on alcohol and spirits to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, a sum equal to 33.3% to the drug abuse treatment program fund and the balance of such moneys collected shall be credited to the state general fund.

(j) If any alcoholic liquor manufactured in or imported into this state is sold to a licensed manufacturer or distributor of this state to be used solely as an ingredient in the manufacture of any beverage for human consumption, the tax imposed upon the manufacturer or distributor shall be reduced by the amount of the taxes which have been paid under this section as to the alcoholic liquor so used.

(k) The tax provided for by this section is not imposed upon alcohol or wine used by any school or college for scientific, chemical, experimental or mechanical purposes or by hospitals, sanatoria or other institutions caring for the sick. Any school, college, hospital, sanatorium or other institution caring for the sick may import alcohol or wine for scientific, chemical, experimental, mechanical or medicinal purposes by making application to the director for a permit to import it and receiving such a permit. Application for the permit shall be on a form prescribed and furnished by the director, and a separate permit shall be required for each purchase of alcohol or wine. A fee of \$2 shall accompany each application. All permits shall be issued in triplicate to the applicant and shall be under the seal of the office of the director. Two copies of the permit shall be forwarded by the applicant to the microbrewery, farm winery, manufacturer or distributor from which the alcohol or wine is purchased, and the microbrewery, farm winery, manufacturer or distributor shall return to the office of the director one copy of the permit with its shipping affidavit and invoice. Within 10 days after receipt of any alcohol or wine, the school, college, hospital or sanatorium ordering it shall file a report in the office of the director upon forms furnished by the director, showing the amount of alcohol or wine received, the place where it is to be stored, from whom it was received, the purpose for which it is to be used and such other information as required by the director. Any school, college, hospital, sanatorium or institution caring for the sick, which complies with the provisions of this subsection, shall not be required to have any other license to purchase alcohol or wine from a microbrewery, farm winery, manufacturer or distributor.

New Sec. 10. On July 1, 2003, a tax at the rate of \$.09 per gallon on all beer and cereal malt beverage, \$.15 per gallon for wine containing 14% or less of alcohol by volume, \$.38 per gallon for wine containing more than 14% alcohol by volume, \$1.28 per gallon on alcohol and spirits, \$.10 per gallon on wort and liquid malt and \$.05 per pound on malt syrup and malt extract, is hereby imposed on the manufacture, use, sale, storage or purchase of such alcoholic liquors owned at 12:01 a.m. on July 1, 2003, by a licensed distributor or retail dealer as to which the tax has been imposed as provided in K.S.A. 41-501, and amendments thereto. Such tax shall be paid by the licensed distributor or retail dealer owning such alcoholic liquors, cereal malt beverage or beer at such time and date. On or before June 25, 2003, every such distributor and retail dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons of such alcoholic liquors, cereal malt beverage or beer so owned at 12:01 a.m. on July 2, 2003, and such report shall be accompanied by a remittance of the tax due. The license of any licensed distributor or retail dealer who shall fail to make such report or pay such tax, within the time prescribed, shall be subject to suspension or revocation as provided by K.S.A. 41-320, and amendments thereto. All taxes collected by the director under this section shall be paid into the state treasury and the state treasurer shall credit the same to the drug abuse treatment program fund.

Sec. 11. K.S.A. 2002 Supp. 41-501 is hereby repealed.”;

And by renumbering sections accordingly;

Also on page 22, in line 32, before “K.S.A.”, by inserting “On and after November 1, 2003,”; in line 35, by striking all after “book”; in line 36, by striking all before the period;

On page 1, in the title, in line 13, before “amending”, by inserting “increasing the rate imposed on alcohol gallonage taxation; creating the drug abuse treatment program fund;”; in line 14, after “22-3716”, by inserting “, 41-501”; and the bill be passed as amended.

The Committee on **Judiciary** recommends **SB 91, SB 206** be passed.

The Committee on **Judiciary** recommends **HB 2418** be amended on page 1, in line 16, by striking “2003” and inserting “2004”;

On page 2, in line 3, by striking all after the period; by striking all in line 4; in line 5, by striking all before “The”; in line 6, after “in” by inserting “position 11 and”; also in line 6, by striking all after the period; by striking all in line 7; in line 8, by striking all before “The”;

in line 9, after "in" by inserting "position 13 and"; following line 40, by inserting the following sections:

"Sec. 3. K.S.A. 2002 Supp. 20-158 is hereby amended to read as follows: 20-158. The chief justice of the supreme court shall be responsible for the preparation of the budget for the judicial branch of state government, with such assistance as the chief justice may require from the judicial administrator, the chief judge of the court of appeals and the chief judge of each judicial district. Each district court and the court of appeals shall submit their budget requests to the chief justice in such form and at such time as the chief justice may require. The chief justice shall submit to the ~~director of the budget~~ legislature the annual budget request for the judicial branch of state government for inclusion in the annual budget document for appropriations for the judiciary. Such budget shall be prepared and submitted in the manner provided by K.S.A. 75-3716 and 75-3717 and amendments thereto. Such budget shall include the request for expenditures for retired justices and judges performing judicial services or duties under K.S.A. 20-2616 and amendments thereto as a separate item therein. ~~The director of the budget shall review and may make such recommendations to the legislature for proposed changes in such budget as the director deems necessary and appropriate.~~

Sec. 4. K.S.A. 75-3718 is hereby amended to read as follows: 75-3718. (a) The director of the budget shall have in continuous process and revision a tentative budget for the coming years, in the light of direct studies of the operations, plans and needs of the state agencies and of the existing and prospective sources of revenue. *Except as otherwise provided by this section*, after summarizing estimates of funds which may be available and the estimated requirements for the several state agencies, the director shall cause them to be reviewed in relation to the general financial condition and needs of the state and shall cause to be made such further inquiries and investigations, and such revision of the tentative budget, as the director may deem necessary.

(b) Not later than November ~~ten~~ 10 of each year, the director of the budget shall notify each state agency in writing of any revision of ~~its~~ the agency's requests and the agency affected may request a hearing ~~thereon~~ on such revision which request may be filed within ~~ten (10)~~ 10 days after receipt of notice but, in any case, not later than November ~~twentieth~~ 20 of such year. If requested, the secretary of administration shall hold hearings on the tentative budget at which the administrative head of each state agency or the representative of such administrative head shall be entitled to be heard. The hearings provided for ~~herein~~ in this section shall be concluded not later than December 15 of such year.

(c) *The director of the budget shall not revise the budget estimate for the judicial branch of state government that is submitted pursuant to K.S.A. 20-158, and amendments thereto.*

Sec. 5. K.S.A. 75-3721 is hereby amended to read as follows: 75-3721. (a) On or before the eighth calendar day of each regular legislative session, the governor shall submit the budget report to the legislature, except that in the case of the regular legislative session immediately following the election of a governor who was elected to the office of governor for the first time, that governor shall submit the budget report to the legislature on or before the 21st calendar day of that regular legislative session.

(b) The budget report of the governor shall be set up in three parts, the nature and contents of which shall include the following:

(1) Part one shall consist of a budget message by such governor, including the governor's recommendations with reference to the fiscal policy of the state government for the current fiscal year and the ensuing fiscal year, describing the important features of the budget plan for each of the fiscal years included, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income for the current fiscal year and the ensuing fiscal year, with the basis and factors upon which the estimates were made, and the means of financing the budget plan for the each of the fiscal years included, compared with the corresponding figures for at least the last completed fiscal year, and the director of the budget shall prepare the figures for the governor for such comparisons.

(A) The budget plan shall not include (i) any proposed expenditures of anticipated income attributable to proposed legislation that would provide additional revenues from either

current or new sources of revenue, or (ii) any proposed expenditures of moneys in the ending balance in the state general fund required by K.S.A. 75-6702, and amendments thereto.

(B) The general budget summary may be supported by explanatory schedules or statements, classifying the expenditures contained therein by state agencies, objects, and funds, and the income by state agencies, funds, sources and types. The general budget summary shall include all special or fee funds as well as the state general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(2) Part two shall embrace the detailed budget estimates for each of the fiscal years included, both of expenditures and revenues, showing the requests of the state agencies, if any, and the incoming governor's recommendations thereon. It shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the last completed fiscal year, and the estimated amount for the current fiscal year and for each of the ensuing fiscal years included, the debt authorized and unissued, and the condition of the sinking funds.

(3) Part three shall consist of a draft of a legislative measure or measures reflecting the incoming governor's budget for all of the fiscal years included in the budget report.

(c) The division of the budget shall compile a children's budget document consisting of the information contained in agency budget estimates regarding programs that provide services for children and their families. Such document shall be provided to the ~~joint committee on children and families~~, the Kansas commission on children, youth and families, established by the governor's executive order number 91-145, and other persons or entities on request.

(d) The division of the budget, upon request, shall furnish the governor or the legislature with any further information required concerning the budget.

(e) Nothing in this section shall be construed to restrict or limit the privilege of the governor to present supplemental budget messages or amendments to previous budget messages, which may include proposals for expenditure of new or increased sources of revenue derived from proposed legislation.

(f) *The budget estimate for the judicial branch of state government as submitted to the director of the budget pursuant to K.S.A. 20-158, and amendments thereto, shall be included in the governor's budget report.*;

Renumber remaining sections accordingly;

Also on page 2, in line 41, following "K.S.A." by inserting "75-3718 and 75-3721 and K.S.A."; also in line 41, following "Supp." by inserting "20-158,";

In the title, in line 9, preceding "amending" by inserting "concerning the judicial branch budget"; in line 10, following "K.S.A." by inserting "75-3718 and 75-3721 and K.S.A."; also in line 10, following "Supp." by inserting "20-158,"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **SB 110** be amended on page 3, in line 3, by striking all after "(1)"; by striking all in line 4; in line 8, by striking "(2)"; in line 9, by striking "at least"; also in line 9, by striking "but less than \$1,000,000" and inserting "or more"; in line 10, by striking "4" and inserting "5"; in line 11, by striking "(3)" and inserting "(2)"; in line 12, by striking "5" and inserting "7"; in line 14, by striking "(4)" and inserting "(3)"; in line 15, by striking "6" and inserting "9";

On page 4, in line 26, by striking all after "(1)"; by striking all in lines 27 and 28; in line 34, by striking "(2)"; in line 35, by striking "at least"; also in line 35, by striking "but less than \$1,000,000" and inserting "or more"; in line 37, by striking "(3)" and inserting "(2)"; in line 39, by striking "6" and inserting "7"; in line 40, by striking "(4)" and inserting "(3)"; in line 41, by striking "7" and inserting "9"; in line 43, by striking "(5)" and inserting "(4)";

On page 10, in line 7, by striking all after "(1)"; by striking all in line 8; in line 12, by striking "(2)"; in line 13, by striking "at least"; also in line 13, by striking "but less than \$1,000,000" and inserting "or more"; in line 15, by striking "(3)" and inserting "(2)"; in line 16, by striking "6" and inserting "7"; in line 18, by striking "(4)" and inserting "(3)"; in line 19, by striking "7" and inserting "9";

On page 13, by striking all in lines 9 through 12;

By striking all on pages 14 through 17;

On page 18, by striking all in line 1;

And by renumbering sections accordingly;

Also on page 18, in line 22, after "17-1255", by striking the comma and inserting "and"; also in line 22, by striking "and 21-4704";

On page 1, in the title, in line 15, after "17-1255", by striking the comma and inserting "and"; also in line 15, by striking "and 21-4704"; and the bill be passed as amended.

The Committee on **Local Government** recommends **HB 2455** be passed.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was thereupon introduced and read by title:

HB 2463, An act concerning special education; relating to reimbursement of certain costs thereof; amending K.S.A. 72-962, 72-978 and 72-979 and repealing the existing sections, by Committee on Appropriations.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Loyd, the House nonconcurred in Senate amendments to **HB 2015** and asked for a conference.

Speaker Mays thereupon appointed Reps. Loyd, Owens and Ward as conferees on the part of the House.

On motion of Rep. O'Neal, the House nonconcurred in Senate amendments to **HB 2068** and asked for a conference.

Speaker Mays thereupon appointed Reps. O'Neal, Patterson and Pauls as conferees on the part of the House.

On motion of Rep. Loyd, the House nonconcurred in Senate amendments to **HB 2088** and asked for a conference.

Speaker Mays thereupon appointed Reps. Loyd, Owens and Ward as conferees on the part of the House.

On motion of Rep. Jim Morrison, the House nonconcurred in Senate amendments to **HB 2155** and asked for a conference.

Speaker Mays thereupon appointed Reps. Jim Morrison, P. Long and Kirk as conferees on the part of the House.

On motion of Rep. Jim Morrison, the House nonconcurred in Senate amendments to **HB 2161** and asked for a conference.

Speaker Mays thereupon appointed Reps. Jim Morrison, P. Long and Kirk as conferees on the part of the House.

On motion of Rep. Aurand, the House adjourned until 9:45 a.m., Thursday, March 27, 2003.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

